

Rethinking Criminal Investigations: A Practitioner's Guide to Best Practices

RETHINKING CRIMINAL INVESTIGATIONS: A PRACTITIONER'S GUIDE TO BEST PRACTICES

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INTRODUCTION

Introduction

You have probably seen criminal investigations portrayed in television shows, documentaries, podcasts, and social media clips. In many of those stories, the investigator notices one clue, asks one perfect question, and solves the case. Interviews are shown as dramatic confrontations. Witnesses either remember everything or nothing at all. Confessions appear to settle the case instantly. Real investigations are different. Most cases are built slowly. They depend on careful listening, accurate documentation, lawful procedures, and the ability to evaluate information without rushing to the wrong conclusion.

This textbook is designed to help you understand the human side of criminal investigation. The goal is not to teach shortcuts, tricks, or television-style instincts. The goal is to prepare you to think clearly, ask better questions, and handle evidence involving memory, communication, and decision-making with care. Criminal investigations often depend on people. Witnesses describe what they saw. Victims explain what happened to them. Children may need to speak about painful events. Suspects may deny, admit, minimize, or falsely confess. Jurors and judges must later make sense of what investigators collected. Every step in that process is shaped by psychology.

That is why this book focuses on criminal profiling, cognitive bias, interrogations and confessions, deception detection, eyewitness memory, witness and victim interviewing, child forensic interviewing, expert testimony, and jury and judicial decision-making. These topics are connected. A weak interview can distort memory. A mistaken belief about deception can push an interrogation in the wrong direction. A flawed lineup can strengthen a false identification. A confession can reshape how everyone else sees the case. A judge or jury may later give great weight to evidence that was collected under poor conditions. Good investigators need to understand not only what evidence says, but how it was created, shaped, and interpreted.

What This Textbook Will Help You Do

By the end of this book, you should be able to think more carefully about how criminal investigations really work when people, memory, pressure, and bias are involved. You will learn how to evaluate behavioral evidence without treating it like magic. You will examine why memory is powerful but imperfect, why some interview methods produce better information than others, and why fairness and accuracy depend on process as much as outcome.

You will also build habits that matter in real justice work. These include slowing down before drawing conclusions, separating evidence from assumption, recognizing risk factors for false confessions and mistaken identifications, and understanding why rapport, neutrality, and documentation matter. You will learn that strong investigations are not built through intimidation or guesswork. They are built through disciplined reasoning, lawful methods, and respect for the limits of human memory and perception.

How to Use This Book

Each chapter follows a similar structure so you know what to expect as you move through the text. You will begin with learning objectives and a chapter overview that explains why the topic matters in real investigations. The main sections then break the material into manageable parts and connect research to practice.

As you read, you will see “Watch Your Step” boxes that point out common myths, weak assumptions, and professional risks. You will also see “Slow Down and Think” boxes that ask you to stop and work through short scenarios before moving on. These are meant to help you practice judgment, not just memorize terms. The “Pro Tip” boxes highlight practical lessons drawn from established research and professional guidance. At the end of each chapter, you will work through a case study, skill labs, and reflection questions designed to push you past passive reading and into real analysis.

This book is meant to be used actively. Read with a pen in your hand. Ask what is known, what is uncertain, what could have been done differently, and what evidence is still needed. The strongest students in this field are not the ones who jump to answers first. They are the ones who learn how to ask the better question.

A Note About Limits and Professionalism

No interview method, investigative strategy, or behavioral science tool can guarantee the truth by itself. Witnesses can be sincere and still mistaken. Victims may remember some details clearly and struggle with others. Children can provide important information, but only when interviewed carefully. Suspects can confess truthfully, falsely, or somewhere in between. Judges and jurors can try to be fair and still be influenced by bias, emotion, or the way a case is presented. This is not a reason to lose confidence in criminal investigation. It is a reason to take the work seriously.

Professionalism in this field means respecting both the power and the limits of the evidence. It means avoiding shortcuts, resisting overconfidence, and understanding that the way information is gathered can affect the entire case. It also means treating people with dignity, especially when they are frightened, traumatized, confused, young, angry, or vulnerable. Accuracy and fairness are not separate goals. In criminal investigation, they depend on each other.

Accountability is part of that professionalism. Investigators should be able to explain why they asked a certain question, used a certain procedure, or reached a certain conclusion. They should be able to show how the evidence supports the decision. Strong cases do not depend on hiding weaknesses. They depend on confronting weaknesses honestly and continuing the work carefully.

If you remember one idea from this book, let it be this: good investigations are built through disciplined and ethical thinking, not dramatic certainty. The more serious the case, the more important it becomes to slow down, document well, question your assumptions, check your bias, and protect the integrity of the process.

Who This Book Is For

This book is written for undergraduate students preparing for careers in criminal justice, criminology, psychology and law, victim services, community supervision, law enforcement, investigations, corrections, legal support work, and related fields. It assumes no prior investigative experience. You do not need to know everything about the justice system before you begin. You do need to be willing to think carefully, read closely, and examine how people and procedures shape evidence.

This book is also for students who want a more realistic understanding of criminal investigation than popular culture usually provides. If you are willing to question common myths, look closely at the science, and practice careful judgment, this book will help you build a stronger foundation for the work ahead.

Welcome to the field.

PREFACE

Preface

Overview: Methodology and Approach

Welcome to Rethinking Criminal Investigations: A Practitioner's Guide to Best Practices, an open-access textbook created around a simple idea: students should have access to strong, current, and useful course materials without being priced out of learning. This book is designed for undergraduate students studying criminal investigation, interviews, interrogations, and related psychology-and-law topics. It is written to be academically grounded, clear to read, and practical enough to connect research with real investigative work.

Criminal investigation is often portrayed as fast, dramatic, and intuitive. Popular media tends to focus on sudden breakthroughs, confident detectives, and evidence that seems to speak for itself. Real investigations are more demanding. They require patience, careful reasoning, lawful procedures, strong communication, and an understanding of how memory, stress, bias, and human behavior shape the evidence. This textbook is built around that reality. It focuses on how investigators gather, interpret, and evaluate information when the most important evidence comes from people.

The chapters in this book are grounded in psychological science, legal standards, and public-facing guidance from credible research and professional sources. The book also connects these topics to criminal investigative practice in Washington State and the broader United States when appropriate. It is designed for use in face-to-face, hybrid, or online courses and is written in a way that is meant to be accessible, readable, and useful to a wide range of learners.

Textbook Objectives

This textbook takes a practical, student-centered approach to the human side of criminal investigation. Each chapter is built to help students understand not only what investigators do, but why certain methods produce stronger, fairer, and more reliable outcomes than others. The text emphasizes the science and practice of criminal profiling, cognitive bias, interrogations and confessions, deception detection, eyewitness memory and identification, witness and victim interviewing, child forensic interviewing, expert testimony, and jury and judicial decision-making.

- The guidance in this book is informed by established research and public-facing materials from organizations and institutions such as:
- The U.S. Department of Justice and the National Institute of Justice
- The Federal Bureau of Investigation
- The National Academies of Sciences, Engineering, and Medicine
- The American Psychology-Law Society
- The International Association of Chiefs of Police
- The United Nations and related investigative interviewing guidance sources
- Washington State statutes, court rules, and other public legal guidance, where relevant

Watch Your Step

“Watch Your Step” boxes highlight common investigative myths, weak assumptions, and professional pitfalls. These callouts appear where students and practitioners are most likely to go wrong, including overconfidence in behavioral cues, uncritical trust in eyewitness certainty, suggestive interviewing, premature theory-building, contamination of evidence, and misunderstanding the limits of memory or confession evidence. The goal is not to embarrass mistakes after they happen. The goal is to make those mistakes easier to recognize before they shape the case.

Pro Tip

“Pro Tip” boxes provide short, repeatable habits that can strengthen investigative thinking and improve evidence quality. These tips focus on practical skills such as documenting confidence at the right time, using neutral prompts, preserving the first account, testing alternative explanations, separating evidence from inference, and recognizing when a method sounds persuasive but lacks strong scientific support. Each tip is tied to a broader body of research or professional guidance so that students can see how careful practice grows out of disciplined knowledge.

Slow Down and Think

“Slow Down and Think” boxes are short reflective exercises meant to build judgment. They ask you to stop, work through a brief scenario, and think about what might be missing, what assumptions are being made, and what a more careful next step would look like. These prompts are included throughout the book because strong investigators do not simply move faster than everyone else. They know when to slow down, question the obvious answer, and protect the integrity of the process.

A Note to Our Readers on Accuracy, Fairness, and Professional Judgment

Criminal investigation is one of the most consequential activities in the justice system. The choices made during an interview, an identification procedure, a forensic review, or a case summary can affect whether a person is believed, charged, acquitted, convicted, or exonerated. Those choices can also affect whether victims feel heard, whether children are protected, and whether the public sees the justice system as legitimate.

This textbook does not assume that good intentions are enough. It is built on the idea that fairness and accuracy depend on method. Investigators must understand how bias can shape decisions, how memory can be altered, how pressure can influence statements, and how courtroom decision-makers may later misunderstand evidence that was collected under poor conditions. For that reason, the book asks students to think like professionals. Not “What seems true at first glance?” but “What does the evidence support, how was it produced, and what limits should I keep in mind?”

That mindset protects the integrity of investigations. It also protects the people affected by them.

How to Use This Book

Each chapter follows the same general layout so you know what to expect as you move through the text. You will begin with learning objectives and a chapter overview that explains why the topic matters. As you read,

you will encounter “Watch Your Step,” “Pro Tip,” and “Slow Down and Think” callouts designed to connect research to real investigative decisions.

At the end of each chapter, you will complete “Choose Your Own (Detective) Adventure” activities. These include a case study analysis, skill labs, and essay-style reflection questions under “Questions That Change How You Think.” The purpose of these sections is to move beyond memorization and into application. This book is not meant to be read passively. It is meant to help you practice the habits of careful analysis.

Textbook Goals

Many criminal justice textbooks are expensive, difficult to revise, or written in ways that make them harder for students to use well. This textbook was created to reduce those barriers. As an Open Educational Resource, it is intended to support affordable learning, flexible teaching, and ongoing revision as laws, policies, and research continue to develop.

The broader goal is not only to provide information, but to provide a better way of learning this material. Students should be able to see how these topics connect across chapters rather than treating each one as an isolated unit. A chapter on eyewitness memory connects to interviewing. A chapter on interrogations connects to cognitive bias. A chapter on expert testimony connects to what happened earlier in the investigation. That integrated approach reflects how real criminal cases unfold.

For inquiries about this textbook or suggestions for improvement, please contact the project lead, Dr. Michael McHenry, at mmchenry@whatcom.edu.

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CHAPTER 1: CRIMINAL PROFILING

Dr. Michael McHenry

Chapter 1: Criminal Profiling

Learning Objectives

By the end of this chapter, students should be able to:

- Explain what criminal profiling is, how it has been used in investigations, and what investigators hope it can do.
- Evaluate the main assumptions behind profiling and compare those assumptions with what research has found.
- Assess the practical, ethical, and legal limits of profiling in modern criminal investigations.

Chapter Overview

Criminal profiling may seem like a quick fix for cases, but reality is usually more complex. Its appeal comes from turning scattered clues into a suspect's profile, drawing interest from investigators, the public, and the media. On TV, a profiler inspects a crime scene, describes the suspect, and assists police in catching them. In real life, cases are rarely so simple. For example, in the 1950s New York 'Mad Bomber' case, a psychiatrist's psychological profile correctly guessed some details about the offender, like age and habits (Cannell, 2017), but most investigative work relied on evidence, analysis, and public tips. Such cases show both the potential and limitations of profiling in real investigations.

This chapter looks at criminal profiling as both an investigative tool and a topic of debate. Each section matches the learning objectives to help you follow along. First, you will learn how profiling started and how it is used

in law enforcement. Then, you will examine the main ideas behind profiling and compare them with research findings. The chapter also covers the practical, ethical, and legal limits of profiling, and the risks of relying on it too much. By connecting these points, the chapter shows what profiling is and how its different parts fit together. For investigators, the main question is not whether profiling is interesting, but whether it actually helps solve cases in a fair and legal way.

1.1 What Criminal Profiling Is, and What It Is Not

Criminal profiling is often described as using crime scene details, victim information, offense patterns, and related facts to infer information about an unknown offender (Douglas et al., 1986; Fallon & Snook, 2019). Profilers study the details to infer who may have committed the crime, estimating characteristics such as age, sex, criminal experience, social functioning, living situation, mobility, victim selection, or possible motivations.

This goal sounds reasonable, as investigators frequently use behavior to make judgments. If an offender carefully selects locations, evades evidence, and avoids being seen, detectives may consider the person experienced and deliberate. Repeated victim type or consistent method can indicate a pattern. Such thinking is common. Problems occur when broad guesses are given more certainty than the evidence allows.

There is also an important difference between classic profiling and broader behavioral analysis. For example, in a burglary case, classic profiling might suggest, “The offender is probably a young male loner with prior convictions,” based on general patterns. Behavioral analysis, in contrast, would focus on specifics such as “The offender entered through a locked window during school hours and avoided security cameras, suggesting planning and familiarity with the location.” Current FBI descriptions of behavioral analysis emphasize criminal investigative analysis, interview strategy, investigative strategy, and threat assessment, rather than a simple television-style prediction of “the kind of person” who committed the crime (FBI, n.d.-a). The FBI also describes investigative research as the use of behavioral research to inform investigative decisions, pointing toward a more evidence-based, less mystical approach (Federal Bureau of Investigation, 2022).

Pro Tip

A strong investigator separates hard evidence from behavioral inference in case notes. Direct

evidence, such as DNA, fingerprints, video, phone records, and verified witness statements, should be kept distinct from behavioral ideas or theories about the offender. The FBI's behavioral analysis materials support using behavioral input as part of an investigative strategy, not as a substitute for stronger forms of proof. This habit helps prevent an early theory from sounding more certain than the facts actually support.

Watch Your Step

General Public: "If someone can read a crime scene, they can read the offender like a book."

Expert: Crime scenes can reveal useful behavioral information, but they do not function like magic windows into personality. Investigators must separate direct evidence, reasonable inference, and unsupported speculation.

Profiling differs from identifying a suspect through fingerprints, DNA, video, cell phone records, or witness identification. Those methods can directly link a person to a crime, but a profile usually cannot. Profiling often comes into play after the main evidence has been collected, when detectives need direction or have few leads. At this point, a profile might help investigators generate new ideas, organize information about the offender's behavior, or decide which leads to pursue first. However, profiling should not take the place of direct evidence. It should be used as an extra tool alongside scientific evidence, witness interviews, and careful case analysis. At best, a profile can help investigators think about leads, use resources wisely, or ask better questions. At worst, it can distract from stronger evidence and focus attention on the wrong suspect. There is also a risk of confirmation bias: once a profile suggests a certain type of suspect, investigators may start to see and interpret evidence in ways that support that idea, even if other explanations exist. Being aware of this risk from the start helps prevent mistakes, as discussed in later sections. This difference is important in criminal justice. A method might seem interesting but still be weak. It might be common, but it is still unreliable. Investigators need ideas that actually help them make better decisions in cases.

1.2 How Profiling Developed in Modern Policing

Slow Down and Think: *If a profile says the offender is likely a socially isolated adult male with anger problems, how many people in a large city could fit that description? How helpful is that prediction by itself?*

Modern criminal profiling is often traced to FBI efforts in the late twentieth century, especially work linked to violent crimes and serial offenses (Douglas & Burgess, 1986; Federal Bureau of Investigation, 2013). Some early profiling stories, such as the “Mad Bomber” case, became famous because they seemed to show that a skilled specialist could infer a surprising amount from offense behavior (Brussel, 1968; Fallon & Snook, 2019). These stories helped shape public belief that profiling was both scientific and highly accurate. (Bolton, n.d.)

Over time, profiling became associated with specialized units, consultations in difficult cases, and major case support. Federal agencies continue to use behavioral expertise today. The FBI describes its behavioral services as including criminal investigative analysis, interview strategy, investigative strategy, and threat assessments, while ViCAP supports the comparison of violent crime cases across jurisdictions (FBI, n.d.-a; Federal Bureau of Investigation, 2016). ATF also describes criminal profilers as professionals who support violent crime and arson investigations (Bureau of Alcohol, Tobacco, Firearms, and Explosives, n.d.).

However, just because a method is popular or widely used does not mean it is proven to work. Many investigative practices start because experienced people believe they are helpful, but confidence alone is not enough. There have been many instances in criminal investigations when trusted methods proved less effective than expected. (Kocsis, 2003, pp. 126-144) So, the history of profiling is really the story of a debated practice, not a proven scientific tool. (Kocsis, 2003, pp. 126-144)

Another important shift in modern practice is the move from broad offender prediction toward narrower case support. Many agencies now emphasize behavioral input as one piece of a larger investigative process. That is a more cautious role. It fits better with research on decision making, which shows that investigators can be vulnerable to tunnel vision, confirmation bias, and overconfidence when one theory starts to dominate too early (Findley & Scott, 2006; Meterko & Cooper, 2021).

In other words, even if behavioral analysis has a place in investigation, it should not be treated as a shortcut around evidence. It should operate inside a process that tests hypotheses, looks for disconfirming evidence, and remains open to revision. After all, ask yourself: *When a method becomes famous through a handful of dramatic cases, ask a harder question. Does the method work across many cases, or does it mainly survive on memorable stories?*

Table 1.1 Practical Steps to Reduce Bias in Criminal Investigations

Bias-Reduction Strategy	What the Investigator Does	Why It Matters
Challenge the leading theory	Actively look for evidence that could weaken or contradict the main theory of the case.	This helps prevent confirmation bias and reduces the risk of tunnel vision.
Use an outside case review	Ask a colleague who has not been involved in the investigation to review the case and offer an independent perspective.	A fresh review can reveal overlooked details, weak assumptions, or alternative explanations.
Use a bias-check checklist	Create a short checklist for each case that asks: What assumptions am I making? What alternative explanations fit the facts? Have I seriously considered leads that do not match my main theory?	A structured review slows decision-making and encourages investigators to think more carefully about competing possibilities.
Pause before focusing on a key suspect	Before moving forward, ask: What would make me reconsider this theory? What evidence have I discounted and why? Have I documented at least one competing explanation?	This creates a deliberate checkpoint before the investigation becomes too fixed on one suspect or one explanation.
Keep behavioral analysis in its proper role	Use behavioral analysis as one tool within a broader evidence-based process rather than as a shortcut to the answer.	This keeps the investigation grounded in testable facts and supports openness to changing direction when new evidence appears.

Pro Tip

When a case feels stalled, investigators should seek behavioral support in the form of strategy questions rather than personality guesses. The FBI describes behavioral analysis as including investigative strategy, interview strategy, and threat assessment, all of which are more useful than broad claims about the type of person who committed the crime. This keeps behavioral input focused on what investigators should do next instead of relying on dramatic but weak labels. It also makes the advice easier to test against real case evidence.

Watch Your Step

General Public: “Profiling works because the FBI uses it.”

Expert: Agency use does not prove scientific accuracy. Many agencies use behavioral expertise in limited, practical ways, but the strongest parts of an investigation still come from tested evidence, verified facts, and careful case review.

1.3 The Main Profiling Models and Their Assumptions

Classic profiling rests on a simple idea. It assumes that offender behavior can reveal stable features of the offender. In this context, homology refers to offenders who commit crimes in similar ways. Behavioral consistency is the idea that an offender exhibits similar behavioral patterns across crimes. Behavioral differentiation means offenders can be distinguished by how they commit their offenses. Fallon and Snook (2019) explain that this general idea is often broken into these three linked assumptions: homology, behavioral consistency, and behavioral differentiation.

Slow Down and Think: *Try taking a typical vague profile sentence, such as “The offender is likely an outsider and uncomfortable in social situations,” and rewrite it as a clear, testable claim. Ask yourself: What evidence would support or contradict this statement? How could you make the claim more precise, so that investigators could clearly judge whether it fits or not? Practicing this skill can help*

Homology means that offenders who commit crimes in similar ways will share similar background characteristics. If two offenders exhibit similar crime-scene behaviors, it is assumed they may also share age, lifestyle, education, criminal history, or personality traits. Behavioral consistency means that an offender will act similarly across offenses. Behavioral differentiation means that one offender can be distinguished from others by patterns of behavior.

These assumptions sound sensible, but each one raises hard scientific questions. People are not perfectly stable across situations. Human behavior changes across stress, opportunity, victim resistance, substance use, emotional state, location, time pressure, and co-offending. Research in psychology has long shown that behavior is shaped by both personal characteristics and situational factors. (Fleeson & Jayawickreme, 2021) That is a problem for any profiling

method that treats offensive behavior as a direct route to stable personality traits (Fallon & Snook, 2019).

Researchers have also tested the homology assumption directly. Mokros and Alison (2002), studying rape cases, did not find support for the claim that offenders who behaved similarly at the crime scene also shared similar background characteristics. Doan and Snook (2008) found similar problems in robbery and arson cases. Some later studies suggested that links between behavior and offender characteristics may become clearer when crimes are analyzed in more detailed phases and within context, rather than through broad typologies alone (Goodwill et al., 2016). Even so, that is far from proving that classic profiles can reliably identify offenders. Another challenge is that profiling studies often simplify the task. Participants may read a case summary and complete a questionnaire, but real investigators work with changing evidence, multiple suspects, pressure from the public, and limited time. A research method that does not reflect actual case complexity can only tell us so much. Some scholars therefore argue that classic criminal profiling should be treated very cautiously unless its claims are tested more transparently and more rigorously (Fallon & Snook, 2019; Snook et al., 2008). That position does not mean behavioral input is useless. It means that broad claims of profiler expertise remain stronger than the available evidence.

*sharpen your critical thinking
when reviewing profiling
statements.*

Pro Tip

Investigators should resist forcing a messy case into a neat category too early. Real offenses often involve both planning and chaos, which means simple typologies can hide more than they reveal. FBI behavioral resources and later research-informed discussions of criminal investigative analysis support using case-specific behavioral information carefully rather than relying too heavily on rigid labels. If a case appears mixed, it should remain mixed until the evidence supports a more confident interpretation.

One of the most well-known profiling models was the organized-disorganized typology. In that framework, some crimes were described as more planned, controlled, and methodical, while others were described as impulsive, chaotic, and poorly organized (Federal Bureau of Investigation, 1985). The theory suggested that

these crime scene features could be linked to corresponding offender characteristics. For example, a more organized crime was said to reflect a more socially competent and deliberate offender.

That model became influential, but later research raised serious concerns. Canter et al. (2004) found that the organized and disorganized distinction did not perform well as a stable classification system for sexual homicide cases. Later work also found problems with other broad profiling typologies when researchers tried to validate them against real data (Bennell et al., 2012).

Slow Down and Think: *An offender may plan one part of a crime and panic during another part. If behavior is mixed, what happens to a model that forces the whole case into one category?*

Researchers have also tested the homology assumption directly. Mokros and Alison (2002), studying rape cases, did not find support for the claim that offenders who behaved similarly at the crime scene also shared similar background characteristics. Doan and Snook (2008) found similar problems in robbery and arson cases. Some later studies suggested that links between behavior and offender characteristics may become clearer when crimes are analyzed in more detailed phases and within context, rather than through broad typologies alone (Goodwill et al., 2016). Even so, that is far from proving that classic profiles can reliably identify offenders.

1.4 What the Research Says About Accuracy

The biggest question is straightforward. Are profilers better than others at predicting unknown offenders from case materials? The answer remains unsettled, and the evidence is weaker than many people expect. In a narrative review and meta-analysis, Snook et al. (2007) found that a large portion of the profiling literature relied more on commonsense arguments and anecdotes than on strong empirical testing. They also reviewed studies that compared profiler performance with the performance of other groups. Some findings suggested that profilers sometimes performed better than comparison groups, but the results were limited by inconsistent definitions of who counted as a profiler, small sample sizes, and study designs that did not closely mirror real investigations. Even when profilers performed better, their performance did not justify treating them as near-certain experts (Fallon & Snook, 2019; Snook et al., 2007).

This point is important. Being ‘better than some groups’ does not mean a method is good enough for serious decisions. In criminal investigations, small improvements are not enough if the method also causes overconfidence or mistakes. Research also raises questions about how profiles are written and understood.

Alison, Smith, Eastman, and Rainbow (2003) and Almond et al. (2007) found that many profiling statements are vague, hard to verify, or difficult to disprove. This means a profile might seem useful because it is broad enough to fit many people, or because people judge its success loosely after the fact. This is similar to a common thinking error, where people remember the parts that seem correct and ignore the parts that were unclear, wrong, or too general to test (Lidén, n.d.).

Watch Your Step

General Public: “A profile was partly right, so the profile worked.”

Expert: A partly correct profile does not automatically show expertise. Many general statements can sound impressive after an arrest, especially if investigators judge success with hindsight.

1.5 Why Profiling Can Become Dangerous in Real Cases

Investigations are vulnerable to cognitive bias. Once detectives form an early theory, they may begin to notice evidence that fits that theory and discount evidence that does not. This problem is often described as tunnel vision or confirmation bias (Findley & Scott, 2006; Rassin, 2020). The consequences are not theoretical: for example, the National Registry of Exonerations has found that official misconduct and false accusations, often reinforced by investigative bias, contributed to more than 50 percent of wrongful convictions leading to exoneration in the United States (National Registry of Exonerations, 2024). A single profile or a premature theory can amplify that risk if it is treated as a map of the offender rather than as a tentative set of ideas.

Pro Tip

Suspect descriptions and investigative reasoning should be written with exact, case-specific facts

rather than broad assumptions about groups of people. The U.S. Department of Justice guidance on protected characteristics and Washington model policing guidance both support using specific, reliable suspect information while avoiding stereotype-based reasoning. This helps protect investigations from legal and ethical problems while also reducing the risk that bias will quietly shape the theory of the case. Strong investigative writing should sound precise, not generalized.

This danger is real. Profiling has been blamed for mistakes in well-known cases. For example, in the Colin Stagg case in the UK, behavioral profiling and an aggressive undercover operation led police to focus on a suspect who was later found not guilty, while someone else was eventually identified as the real offender (Fallon & Snook, 2019). Cases like this show that when guesses about behavior go beyond the evidence, investigations can become focused on a suspect rather than on the facts. Ethical limits also matter. Current federal guidance says law enforcement personnel may not act on the belief that a protected characteristic signals a higher risk of criminality or danger. The guidance allows limited use of protected characteristics only when the information is specific, reliable, and tied to a particular suspect, incident, or identified criminal activity, such as a witness description in a specific case. Broad generalizations are not allowed (Table 1.2). Washington policy also tells officers to prevent biased policing and avoid decisions based on stereotypes or protected status, except where specific suspect information lawfully requires it (Washington State Association of Sheriffs and Police Chiefs, 2020). Washington case law also recognizes that implicit bias can affect justice decisions even when overt bias is not admitted.

Table 1.2 Lawful and Unlawful Uses of Behavioral Information in Criminal Investigations

Type of Use	Investigative Practice	Why It Matters
Lawful use of behavioral information	Using a witness description that includes specific, observable traits, such as a female suspect wearing a red jacket and glasses, to identify a person involved in a particular incident.	This is tied to direct, case-specific information rather than a stereotype or general assumption.
Lawful use of behavioral information	Referring to protected characteristics only when supported by reliable, specific information directly connected to a crime or suspect.	This keeps the investigation focused on relevant facts and helps maintain legal and ethical boundaries.
Lawful use of behavioral information	Identifying risk or making investigative decisions based on facts, evidence, and direct observations within the context of an actual case.	This supports evidence-based reasoning and reduces the likelihood that bias will shape the investigation.
Unlawful use of behavioral information	Making investigative decisions based on stereotypes or generalizations about race, ethnicity, gender, religion, age, disability, sexual orientation, or another protected status.	This relies on group-based assumptions rather than case-specific evidence and can violate legal and ethical standards.
Unlawful use of behavioral information	Focusing on a suspect only because the person shares broad characteristics with a statistical profile instead of relying on specific facts or evidence from the case.	This can lead investigators away from stronger evidence and increase the risk of biased or unsupported decisions.
Unlawful use of behavioral information	Citing protected characteristics without a direct, reliable connection to the suspect or the specific facts of the crime.	This creates confusion between lawful suspect description and unlawful profiling and may undermine the fairness of the investigation.

This comparison helps show the difference between lawful investigative reasoning and behavioral profiling that is not permitted. Keeping these boundaries clear helps investigators make decisions that are effective, fair, and legally defensible. These rules are important because profiling can lead to unfair and unlawful reasoning if investigators start with assumptions about race, ethnicity, religion, age, disability, gender, sexual orientation, or social class. Respectful and legal investigation requires being specific and careful. It also requires humility. A detective may feel sure that a case “looks like” a certain type of offender, but feelings are not evidence.

Bias can also come from using labels like loner, deviant, predator, or psychopath when these words are used loosely instead of being based on clear behavior or clinical definitions. In reports and court, these labels can change how people see the facts. Once a label is used, it can affect interviews, how suspects are judged, charges, and even jury opinions (Stigmatizing Labels Used for Individuals Involved in the Criminal Legal System: A Meta-Study of Academic Literature, 2025). Good investigators describe what happened first and draw conclusions later.

Watch Your Step

General Public: “Profiling is just common sense.”

Expert: Common sense can help investigators notice patterns, but common sense alone is also where stereotypes, bias, and overconfidence often hide. Investigations need tested methods, not just gut feeling.

1.6 What Skilled Investigators Should Use Instead of Profile Dependence

Not relying on profiles does not mean ignoring behavior. Instead, investigators should use behavioral information carefully and thoughtfully. Modern investigative work uses several stronger tools.

First, investigators should focus on case-specific behavioral analysis rather than broad personality prediction. While criminal profiling often attempts to identify an unknown offender based on broad personality traits or stereotypes, behavioral analysis examines observable behaviors, motivations, and actions associated with a particular crime and victim. The FBI describes behavioral analysis today in terms that include motivation, victim selection, offense sequence, interview strategy, and investigative recommendations, all tied to a particular case rather than to sweeping assumptions about offender identity (FBI, n.d.-a).

For example, profiling might say an unsolved crime was done by a ‘white male in his 30s with past trauma.’ Behavioral analysis, instead, would point out that the offender chose victims in public parks, left evidence at certain times, and changed methods when police increased patrols. This helps investigators understand the offender’s choices and plan specific steps, instead of guessing about personality. By keeping these approaches separate, investigators can avoid letting untested ideas take over the facts.

Second, investigators should use organized information systems. ViCAP was created to help law enforcement compare violent cases across jurisdictions and identify patterns in behavior, victim characteristics, and other details (Federal Bureau of Investigation, 2016; Office of the Inspector General, U.S. Department of Justice, 2024). In one case, ViCAP linked crimes that occurred thousands of miles apart by identifying common

patterns, enabling investigators to share key information and find the suspect. Stories like this show that a shared database can connect clues in ways a single profiler cannot. Comparing patterns is different from profiling personalities because it relies more on data.

Third, investigators should improve their case review. Research on tunnel vision suggests teams should test different explanations, look for evidence that goes against their main theory, and write down why they accept or reject ideas (Coppola & Hyman, 2016; Snook & Cullen, 2008). A useful exercise is to stop and ask, ‘What three pieces of evidence would prove my main theory wrong?’ Looking for facts that challenge your ideas helps investigators avoid mistakes. These steps may not seem exciting, but they help prevent errors.

Fourth, investigators should work on their interviewing skills. The United Nations and recent research say that gathering information, building trust, being open, and carefully testing evidence are better than using pressure or making assumptions (United Nations, 2024). A strong interview can reveal much more than a weak profile.

Finally, investigators should understand the difference between profiling and threat assessment. Threat assessment teams evaluate whether a person is moving toward targeted violence by examining behaviors, stressors, planning, access, and contextual warning signs. The FBI has explained that threat assessment teams do not rely on profiles and instead focus on observable behavior and changing circumstances. That distinction is useful because it shows a more evidence-based direction for behavioral work in criminal justice.

Pro Tip

Behavioral thinking should be used to generate better interview questions, not to assume the answer before the interview begins. The United Nations guidance on investigative interviewing and the FBI’s descriptions of behavioral analysis both support using behavior to inform planning, rapport, and strategy rather than to replace evidence testing. In practice, that means asking what still needs to be clarified instead of assuming the investigator already knows what kind of person committed the offense. Strong interviews usually produce better results than weak profiles.

Slow Down and Think: *Which would you trust more in a case review: a broad statement about the “type” of offender, or a documented pattern based on witness accounts, digital evidence, travel history, offense timing, and verified behavioral steps?*

This chapter does not say that behavior is unimportant in investigations. Offender actions, how victims are chosen, movement, and planning all matter. The main point is that behavior should guide investigations, but not be treated as certain without proof. In good investigations, thinking about behavior helps create questions, but it does not replace solid evidence.

For example, suppose detectives investigate a series of burglaries in a neighborhood where entry points and times are similar. Observing that the offender always enters through second-story windows during the day, the team infers that the offender likely has physical agility and some knowledge of residents’ routines. Instead of jumping to conclusions about the offender’s identity or personal background, investigators

use these behavioral clues to generate targeted questions: Are there recent trespassing reports in the area? Who has access to climbing equipment or ladders? Are there recent social media posts about neighborhood absences? By asking these specific questions, behavioral insights lead to new investigative steps without overreaching into assumptions about the offender’s personality or background.

This chapter is not arguing that behavior has no place in investigation. It does. Offender behavior, victim interaction, spatial movement, and offense planning all matter. The lesson is narrower and more important. Behavior should inform investigation without being turned into unsupported certainty. In a strong investigation, behavioral thinking helps generate questions. It does not replace proof.

Key Takeaways

Criminal profiling is a well-known idea in investigations, but its scientific support is much weaker than what popular culture shows. Profiling became popular through high-profile cases, expert confidence, and specialized units, but research has not shown that broad profiles can reliably identify unknown offenders in important cases. The main ideas behind profiling, like homology and

behavioral consistency, have only mixed or weak support. Broad categories such as organized and disorganized offending have also not held up well in studies.

This does not mean behavior does not matter. It means investigators should use behavioral information carefully, in the right context, and together with stronger evidence. Today, best practice includes case-specific behavioral analysis, effective interviewing, database use, critical review, and steps to avoid bias. The most responsible approach is to see profiling as a limited and debated tool, not a shortcut to the truth.

End of Chapter Activities

Case Study Analysis

Case:

The Beltway Sniper Investigation

In the 2002 Beltway sniper case, the FBI reported that behavioral analysts helped prepare a profile of the shooter. At the same time, the major break in the case came from case linkage, fingerprint evidence, ballistic information, suspect records, vehicle identification, and interagency coordination that led to the arrest of John Allen Muhammad and Lee Boyd Malvo. [oai_citation:8†Federal Bureau of Investigation](<https://www.fbi.gov/history/famous-cases/beltway-snipers>)

Your task: Write a case analysis in which you separate *behavioral assistance* from *evidentiary resolution*. In your response, explain what profiling may have contributed, what traditional investigative tools clearly contributed, and why that difference matters. Then answer these questions: What would be the danger of overstating the role of the profile? How can investigators use behavioral input without allowing it to dominate the case theory? What lessons from this case should shape future multi-agency investigations involving serial violence?

Choose Your Own (Detective) Adventure

Skills Lab 1: Profile or Evidence?

Review a short case scenario provided by your instructor. Create a two-column chart. In the first column, list facts that are direct evidence. In the second column, list statements that are inferences or profile claims. Then write a paragraph explaining why mixing those categories can mislead an investigation.

Skills Lab 2: Test the Assumption

Choose one profiling assumption, homology, behavioral consistency, or behavioral differentiation. Explain the assumption in plain language, identify one weakness in it, and give one investigative example showing why the assumption may fail in real life.

Skills Lab 3: Rewrite the Profile

Take a fictional offender profile full of vague claims such as “likely angry,” “socially isolated,” or “sexually dysfunctional.” Rewrite it into a shorter, evidence-based briefing that uses only observable case facts, specific behavioral patterns, and clear limits on what can be concluded.

Skills Lab 4: Bias Check

Design a one-page bias review checklist for detectives. Your checklist must include prompts about protected characteristics, competing hypotheses, disconfirming evidence, and case review by another investigator.

Skills Lab 5: Interview Strategy Over Guesswork

Using a sample case, build an interview preparation plan that does not rely on personality profiling. Include rapport goals, evidence topics to test, contradictions to clarify, and questions designed to gather information rather than force a confession.

Questions That Change How You Think

1. Why do you think criminal profiling remains so popular even though the research base is limited?
2. What is the difference between a useful investigative inference and unsupported speculation?
3. How can a vague profile still seem accurate to investigators or the public?
4. Why is it dangerous to confuse a witness description with a stereotype-based profile?
5. How can tunnel vision turn a profile from a hypothesis into a harmful case theory?
6. Should profiling ever be used in court? Explain your reasoning.
7. How should investigators respond when a behavioral theory fits the case but the physical evidence does

not?

8. What does a fair investigation require when case information touches on race, ethnicity, religion, gender, disability, or other protected characteristics?
 9. In your view, what should count as enough evidence before a behavioral method is trusted in major cases?
 10. If you were writing policy for a law enforcement agency, what limits would you place on profiling and why?
-

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This chapter was developed from publicly available research reports and guidance documents. It is intended as a teaching resource and does not constitute legal advice or official policy. Readers should consult local laws and agency policies for specific guidance.

CHAPTER 2: BIAS IN THE CASE FILE

Dr. Michael McHenry

Chapter 2: Bias in the Case File

Learning Objectives

By the end of this chapter, students should be able to:

- Explain what cognitive bias is and describe how it can affect investigators, attorneys, judges, jurors, and forensic examiners.
- Identify common forms of bias that shape legal decision-making, including confirmation bias, tunnel vision, hindsight bias, and bias in the interpretation of evidence.
- Evaluate practical strategies that criminal justice professionals can use to reduce bias and make more accurate, fair decisions.

Chapter Overview

Criminal investigations depend on people making choices. Detectives decide which leads to follow. Forensic examiners review physical evidence. Prosecutors choose whether to file charges. Defense attorneys consider risks and the strength of the case. Judges make rulings, and jurors decide guilt or innocence. At every step, people are expected to think carefully and fairly. Still, everyone relies on mental shortcuts. These shortcuts can sometimes help, but they can also distort what people see, remember, and decide (Meterko & Cooper, 2021). The impact of these judgments is clear in cases like the Central Park Five, where five teenagers were wrongfully convicted because evidence and confessions were interpreted with bias. Years later, DNA evidence and a confession from the real perpetrator revealed the error (PBS, 2012). Cases like this show that bias in human judgment can have serious, life-changing consequences.

This chapter looks at how cognitive bias affects legal decisions. You will see how bias can influence the way one piece of evidence is judged and how it can grow as a case moves forward. Wrongful convictions rarely happen because of a single mistake. More often, they result from a series of decisions that seem reasonable at the time but become harmful when they build on each other (Findley & Scott, 2006; Meterko & Cooper, 2021). For investigators, this chapter is important because good police work is not just about working hard. It is also about thinking clearly, questioning assumptions, and protecting the fairness of the case (Findley, 2016).

2.1 What Cognitive Bias Means in Criminal Justice

Cognitive bias refers to predictable patterns of thinking that can influence how people interpret information and make decisions. In criminal justice, bias does not always mean prejudice or bad intent. Often, it reflects normal human thinking. For example, bias can act as a mental shortcut – a way to quickly process information or make sense of uncertainty. Prejudice, in contrast, means holding a negative stereotype or hostile attitude about a specific group. A detective might, for instance, develop a bias by focusing on the first suspect mentioned in a case, not out of animosity but due to a natural tendency to stick with early impressions. This shortcut can happen even when the detective holds no negative opinions about the suspect or any group they belong to. People naturally look for meaning, form impressions quickly, and try to make uncertain situations feel more organized. These habits can be useful in daily life, but in legal settings they can lead to error when professionals mistake an early impression for a proven conclusion (Meterko & Cooper, 2021; Smith et al., 2019; Wilford & Wells, 2019).

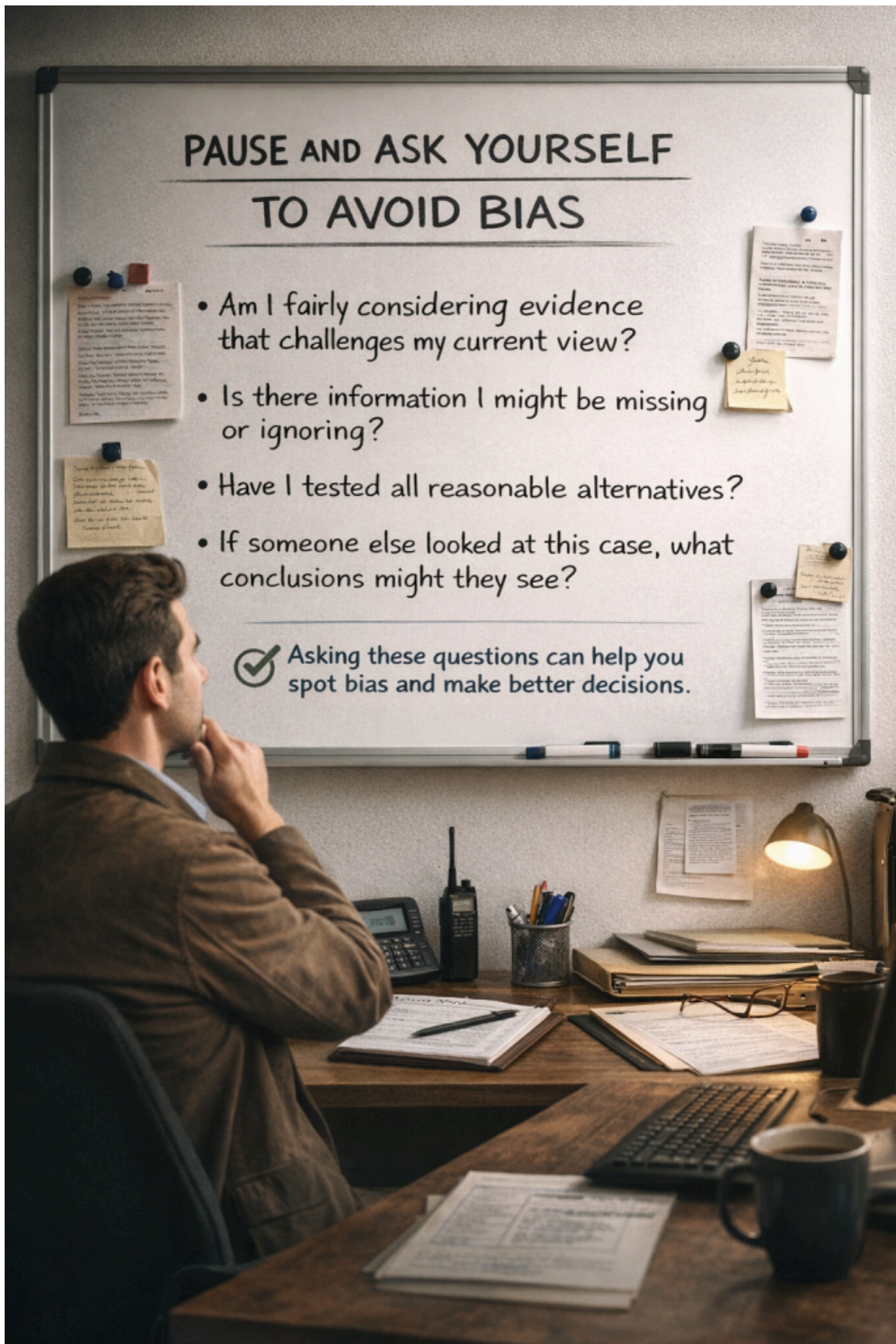
Slow Down and Think: *If two investigators look at the same case file and reach different conclusions, does that mean one of them is dishonest, or could it mean that both are affected by different assumptions and expectations?*

A key point is that bias can affect every part of a case. If someone thinks a suspect is probably guilty, it can change how a detective views an alibi, how a forensic examiner looks at unclear evidence, how a prosecutor judges a witness, and how jurors see the whole case at trial (Wilford & Wells, 2019). Bias is not just a problem for one group. It is a risk throughout the entire system.

Researchers note that there is a difference between bias when judging one piece of evidence and bias when putting all the evidence together. Evidence evaluation means looking at a single item, like matching fingerprints or deciding if a witness seems believable. Evidence integration is when someone

combines all the pieces to decide, for example, if a suspect is guilty (Wilford & Wells, 2019). A person might be careful with one piece but still become biased when looking at the whole case. This matters for both students

and professionals. If we see bias only as a personal flaw, people might think it does not apply to them. But if we see it as a human risk, we can find ways to reduce its effects (Rossmo & Pollock, 2019).



Watch Your Step

General Public: “Bias only matters if someone is openly prejudiced.”

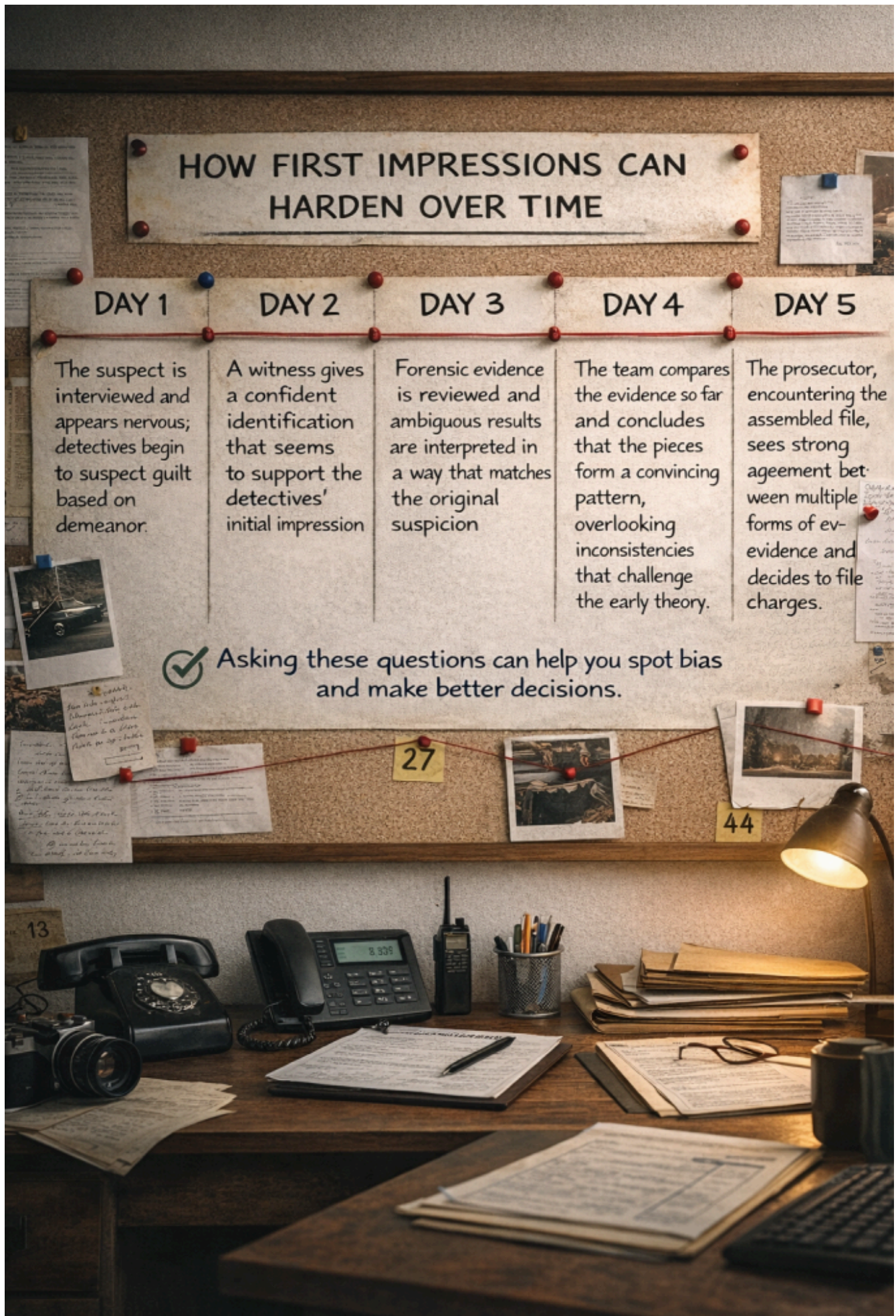
Expert: In criminal justice, many errors come from ordinary mental shortcuts, not open hostility. A person can believe they are being fair and still reach a distorted conclusion because of context, pressure, or prior expectations.

Pro Tip

Support your case theory with a written record of what you know, what you do not know, and what would disprove your theory. The National Institute of Justice and Innocence Project materials on cognitive bias both support structured review instead of assumption-driven decision-making.

2.2 How Bias Starts Early and Grows Over Time

Cognitive bias often begins with a first impression. A suspect may seem nervous. A witness may appear confident. A forensic result may appear to support the leading theory. Once that first impression forms, later information may be filtered through it. This is one reason wrongful convictions can be so difficult to detect at the time they are happening. Each decision may feel logical because it fits with what came before, even when the earlier step was flawed (Findley & Scott, 2006). At each stage, earlier decisions influence how new information is viewed. By the end of the week, the first impression can turn into a conclusion that feels certain, even if the first step was a mistake.



Bias issues in investigative work | Image by M. McHenry

Researchers have used several terms to describe this process. Dror referred to a “bias snowball effect,” Kassin described “corroboration inflation,” and Davis and Leo discussed an “escalation of errors” in criminal cases (Wilford & Wells, 2019). Although the names differ, the core idea is the same. Once one piece of evidence is interpreted in a biased way, that interpretation can shape the next judgment, and then the next one after that.

Imagine a case in which an examiner wrongly believes a print is a likely match. That opinion may strengthen the detective’s belief in the suspect. The detective may then view the suspect’s alibi as weak and a hesitant witness identification as more convincing than it really is. The prosecutor may see the case as stronger because several pieces of evidence now appear to point in the same direction. In reality, the later judgments may not be independent at all (notice how each later decision echoes the first mistake). They may be contaminated by the earlier mistake (Hasel & Kassin, 2009; Wilford & Wells, 2019). This compounding effect matters because the justice system often assumes that separate forms of evidence independently confirm each other. But if one item has already influenced the interpretation of another, the case may appear more powerful than it truly is (Wilford & Wells, 2019).

Slow Down and Think: *When a detective says, “Everything fits,” ask a second question. Does everything truly fit on its own, or did one early theory shape how the rest of the evidence was viewed?*

Watch Your Step

General Public: “If many pieces of evidence point to the same person, the case must be strong.”

Expert: Not always. Evidence can look more consistent than it really is when earlier judgments shape later ones. Several weak or contaminated pieces of evidence can create a false sense of certainty.

Pro Tip

Separate the timing of decisions when possible. The National Institute of Standards and Technology and the National Institute of Justice both support procedures that limit unnecessary contextual information during evidence review.

2.3 Common Biases That Affect Investigations and Legal Judgments

Many types of cognitive bias can affect criminal cases. The following biases are especially important because research shows they most often shape how investigators, attorneys, and jurors interpret evidence, make decisions when things are unclear, and sometimes lead to wrongful convictions. By focusing on these key biases, this section points out the patterns that have the biggest real-world impact on investigations and courtroom results (Castrellon, 2022).

Slow Down and Think:

Would you judge the same alibi differently if you heard it during an open investigation instead of during a criminal trial after a person had already been charged?

Confirmation bias occurs when people seek, notice, and remember information that supports what they already believe while discounting information that points the other way (Findley & Scott, 2006; Rassin, 2020). In an investigation, this can lead detectives to build a case around one suspect too early.

Tunnel vision is a broader pattern where investigators or decision-makers focus so much on one conclusion that they do not fully consider other options. Findley and Scott (2006) said tunnel vision includes confirmation bias, hindsight bias, belief perseverance, and selective information processing. In practice, tunnel vision can affect interviews, searches, evidence requests,

charging decisions, and plea deals. It is not just about individual thinking; it is also shaped by organizational incentives and policies. For example, agencies may reward quick case closure, high arrest numbers, or conviction rates in performance reviews, which can push investigators to focus on one suspect or theory early.

When promotions, praise, or bonuses depend on these numbers, the system encourages a narrow focus, making it harder for professionals to step back and consider other options. Understanding how these reward systems shape behavior helps agency leaders see why tunnel vision continues and what changes might help support more fair investigations (Rossmo & Pollock, 2019).

Hindsight bias happens when people see an outcome and then feel that it was easier to predict than it really was. Once a suspect has been arrested or convicted, observers may begin to believe the signs were obvious all along. This can make weak evidence seem stronger and reduce the willingness to revisit earlier decisions (Findley & Scott, 2006).

Anchoring occurs when an early number, theory, or impression influences later judgment. Even when people think they are adjusting their views, they may remain too close to the starting point. In legal settings, anchoring can affect charging decisions, bail views, plea discussions, and judicial assessments of evidence (Kang et al., 2012; Wistrich et al., 2005). For example, in a study cited by Wistrich and colleagues, judges who were exposed to a high initial bail request set bail amounts that were on average significantly higher than judges who saw a lower anchor. In some experiments, simply presenting a higher number as a suggestion led to increases in bail decisions by as much as 45 percent (Rachlinski et al., 2026). This demonstrates how an initial anchor, even if arbitrary, can have a measurable effect on real-world outcomes, creating unfair disparities for defendants based on little more than the way numbers are introduced.

Belief perseverance means that once a belief has formed, it may survive even after its original support becomes weaker. A detective who has spent weeks focusing on one suspect may find it difficult to shift direction, even when new evidence suggests a different path (Findley & Scott, 2006).

Fundamental attribution error can also matter. This bias involves overemphasizing personal traits and underestimating situational pressures. In criminal justice, it may lead people to assume a suspect confessed because they are guilty rather than because they were exhausted, frightened, misled, or vulnerable to pressure (Appleby & Kassin, 2016). To understand how this works in real life, imagine a young adult who is held in an interview room for hours late at night. The suspect is tired, anxious, and unsure when they will be allowed to leave. After repeated questioning and suggestions that things will go easier if they “just tell the truth,” the suspect eventually confesses to a crime they did not commit, simply to end the ordeal. Later, outside observers may look at the confession and assume the suspect must truly be guilty, not realizing how much sleep deprivation, fear, and relentless questioning shaped their actions. This example highlights why it is vital to recognize the powerful influence of the situation when judging a person’s behavior or statements.

Bias can affect jurors too. Research shows that jurors are influenced by how strong the trial evidence seems, but their decisions can also be shaped by the situation. For example, just knowing a case made it to trial can make the evidence seem more convincing, since people assume it was already checked carefully (Sommers & Douglass, 2007; Wilford & Wells, 2019).

Watch Your Step

General Public: “Good investigators trust their instincts.”

Expert: Experience matters, but instincts are shaped by memory, expectations, and past cases. Strong investigators test their instincts instead of treating them as proof.

Pro Tip

When you think a suspect reaction proves guilt, stop and list at least three innocent explanations for that same behavior. The Innocence Project and international investigative interviewing guidance both support avoiding guilt-based interpretation of normal stress reactions.

2.4 Bias in Police Investigations

Police investigations are especially at risk for cognitive bias because they often begin with a lot of uncertainty. Detectives must work with limited information, public pressure, safety concerns, and tight deadlines. In these situations, it is easy for an early theory to take control of the case.

Slow Down and Think: *If your strongest suspect suddenly appears less likely after new*

Meterko and Cooper (2021) reviewed research on cognitive bias in criminal case evaluation and concluded that bias can affect the way investigators interpret witness statements, judge alibis, evaluate confessions, and combine evidence. Detectives play a central bridge role between the investigative team and the forensic laboratory. The information they choose to include or leave out in lab submission forms, case summaries,

or evidence requests can directly influence how forensic examiners interpret materials. To minimize bias, detectives should limit case summaries for laboratory submissions to specific, case-relevant facts and exclude any personal theories about guilt, detailed narratives, or speculation regarding the suspect. For example, submissions should include only what is necessary for technical analysis, such as the time, location, and nature of the evidence, and avoid mentioning confessions, prior records, or other potentially biasing details. By focusing submissions on factual needs and omitting interpretive opinions, detectives help ensure that forensic findings are based solely on the evidence. Once detectives come to believe a suspect is guilty, they may ask more accusatory questions, view inconsistencies as deception, and overlook details that support innocence. Garrett (2016) similarly noted that wrongful conviction cases often reveal investigative processes in which assumptions hardened before the evidence was fully tested.

evidence comes in, would you see that as a setback, or as proof that your investigation is working the way it should?

Research has also shown that context can influence evidence interpretation. Hasel and Kassin (2009) found that people who were given confession evidence were more likely to see other evidence as incriminating. This shows that one piece of case information can contaminate the interpretation of another. Charman and colleagues have reported similar concerns when contextual case information shapes judgments about resemblance or meaning in evidence (Wilford & Wells, 2019). Another important point is that bias is not always easy to see. It can appear in everyday choices, like which witness to interview again, what evidence to test, how to write a report, or whether to include information that does not fit the main theory. These small decisions can quietly shape the direction of a case (Meterko & Cooper, 2019).

One practical lesson is that investigators should not treat alternative explanations as obstacles. They should treat them as part of responsible case work. Looking for disconfirming evidence is not a sign of weakness. It is a sign that the investigator is trying to protect the truth-finding process (Lenz et al., 2026; Rassin, 2020). For example, imagine an investigator develops an early theory that a particular suspect committed a burglary, since the suspect was seen near the scene. Instead of stopping there, the investigator checks security footage from nearby businesses, looking for evidence that might contradict the initial assumption. The video shows that another individual entered the building at the key time, and the original suspect had already left the area. By actively seeking out information that could disprove the working theory, the investigator prevents a wrongful accusation and ensures the investigation stays focused on finding the truth. This scenario highlights how an open-minded approach to alternatives protects both innocent people and the quality of the case outcome.

Watch Your Step

General Public: “Tunnel vision only happens in corrupt investigations.”

Expert: Tunnel vision often appears in sincere investigations led by people who believe they are doing the right thing. That is why process safeguards matter so much.

Pro Tip

Use a “what would prove me wrong” section in case review notes. Recent research in PLOS ONE and training materials from judicial and court organizations support deliberate falsification thinking as a way to reduce confirmation bias.

2.5 Bias in Forensic Evidence Evaluation

Much of the early research on cognitive bias in legal settings focused on forensic examiners. This happened in part because forensic conclusions can sometimes be compared against later objective findings, making errors easier to spot. If DNA later shows a suspect is innocent, a prior fingerprint or pattern judgment may be recognized as wrong. By contrast, many detective or juror judgments involve more continuous and subjective assessments, which makes error harder to detect (Wilford & Wells, 2019).

Slow Down and Think:

Researchers have shown that forensic judgments can be affected by contextual information that is not necessary to the technical task. Kassin et al. (2013) described forensic confirmation bias as the influence of expectations, motives, and case information on evidence interpretation. Kukucka

(2018) reviewed research showing that examiners can be affected by exposure to irrelevant contextual details, especially when evidence is ambiguous.

This does not mean forensic professionals are especially prone to mistakes. It simply means they are human. It also means that forensic systems can be designed to limit exposure to information that might cause bias. When examiners receive only the details they need for their work, they can judge the evidence more fairly (Kassin et al., 2013; Kukucka, 2018).

Would an examiner reach the same conclusion if they knew only the technical evidence and none of the suspect-centered facts in the case file?

The issue also connects directly to police work. Detectives often serve as the bridge between the case file and the laboratory. The way a request is written, the case summary that accompanies a submission, and the information shared with experts can all affect later decision-making. A biased submission can create a biased review.

Because of these concerns, many reform efforts focus on context management, blind or masked review where possible, documentation of decision points, and independence in analysis. These reforms do not accuse professionals of misconduct. They recognize that reliability improves when systems account for human limits (Kassin et al., 2013; National Institute of Standards and Technology, 2021).

Watch Your Step

General Public: “Science is objective, so forensic decisions cannot be biased.”

Expert: Scientific tools can be powerful, but human interpretation is still part of many forensic tasks. Objectivity is strengthened by procedure, not guaranteed by job title.

Pro Tip

Give forensic examiners the least amount of case context needed to do the job correctly. The National Institute of Standards and Technology and the National Commission on Forensic Science both support context management safeguards.

2.6 Bias in Attorneys, Judges, and Jurors

Bias does not stop once a case leaves the investigative stage. Prosecutors decide whether the evidence appears strong enough to file charges. Defense attorneys assess risk, witness credibility, and plea options. Judges rule on motions, evidence, and procedure. Jurors interpret all the case information presented at trial. Each role involves judgment, and each role can be affected by context.

Slow Down and Think: *How might a report that describes a suspect as “manipulative” affect the thinking of a prosecutor or juror more than a report that simply describes the suspect’s actual behavior?*

Judges, for example, are often viewed as especially neutral because they are trained decision-makers. Yet research has shown that judges are not immune to anchoring effects, inadmissible information, or implicit bias (Kang et al., 2012; Wistrich et al., 2005). Court education materials now encourage deliberative decision-making, active awareness of unconscious bias, and structured reflection before making important rulings (Illinois Judicial Branch, 2025; Kang, 2021; National Center for State Courts, 2020).

Jurors have their own challenges. They often create stories to make sense of confusing evidence. This can help, but it can also lead people to fill in missing details, prefer stories that make sense, and give too much weight to evidence that fits the story they are building (Levett & Devine, 2017). Research shows that jurors are especially influenced by confession evidence and may trust it too much, even if there are signs of pressure or coercion (Bond & DePaulo, 2006; Woestehoff & Meissner, 2016).

Pretrial publicity and trial context can also shape juror decisions. People may assume that if a case reached trial, the defendant is probably guilty, even though the law requires a presumption of innocence (Sommers & Douglass, 2007; Wilford & Wells, 2019). This is one reason jury instructions that address unconscious bias have become more important. In the Western District of Washington, criminal jury instructions include a specific caution against allowing stereotypes or unconscious bias to influence the verdict (U.S. District Court,

Western District of Washington, n.d.). For Washington investigators, this means the quality of the case file matters deeply. Reports should be accurate, precise, and free from loaded labels or unsupported conclusions because those choices can shape later legal decisions. The work done at the investigative stage travels with the case.

Watch Your Step

General Public: “Judges and jurors just follow the facts, so bias is not a major concern in court.”

Expert: Courtroom decisions are guided by facts and law, but people still interpret those facts through memory, expectation, social influence, and prior beliefs. Neutral systems still need safeguards.

Pro Tip

Describe behavior before you describe character. Bench cards from judicial organizations and court education materials consistently support careful, neutral language because labels can shape later decisions in ways the writer may not even notice.

2.7 Implicit Bias, Protected Characteristics, and Fair Decision-Making

Cognitive bias and implicit bias overlap, but they are not identical. Cognitive bias refers broadly to mental shortcuts and predictable judgment errors. Implicit bias usually refers to automatic associations involving social groups and protected characteristics such as race, ethnicity, gender, disability, age, religion, or sexual

orientation. These associations can affect perception and judgment even when a person rejects explicit prejudice (Kang et al., 2012; National Center for State Courts, 2020).

Slow Down and Think:

Would you evaluate the same behavior differently if it came from a teenager, a person with a mental health disability, an older adult, or someone from a group that is often stereotyped as threatening?

In legal settings, implicit bias can affect how people judge credibility, assess risk, remember events, and guess someone's intent. Research and court training materials say that just knowing about bias is not enough. People need clear steps that slow down decisions and help them focus on facts instead of assumptions (Illinois Judicial Branch, 2025; National Center for State Courts, 2020).

This topic is especially important in criminal investigations because law enforcement officers often must act quickly while also treating people lawfully and fairly. When an officer or detective relies on generalized assumptions about a protected group instead of case-specific facts, both accuracy and

legitimacy suffer. Good practice requires using specific evidence, not stereotypes, and using respectful language in reports, interviews, and courtroom testimony (Rose et al, 2025)

Training can help, though training by itself is not a complete solution. James et al. (2023) evaluated simulation and classroom-based implicit bias training in policing and found that training may improve knowledge and attitudes, but organizational practice and ongoing reinforcement also matter. Research suggests that scenario-based learning, in which participants practice responding to realistic situations, can be more effective than passive methods alone. Peer discussion and facilitated group reflection also help participants recognize bias and develop practical strategies together. The most effective programs combine active engagement with continuous feedback and opportunities to apply learning over time. Debiasing is not a one-time event. It is a continuing discipline. Respectful, precise language is one part of that discipline. Reports should identify relevant facts without using unnecessary labels or outdated terms. Investigators should also remain alert to how social stereotypes might affect witness assessments, suspect interpretations, and decisions about risk (Meterko et al., 2022).

Watch Your Step

General Public: “I treat everyone the same, so implicit bias cannot affect me.”

Expert: Equal intentions are important, but automatic associations can still shape perception. Fairness improves when people build habits that check their own assumptions instead of assuming they have none.

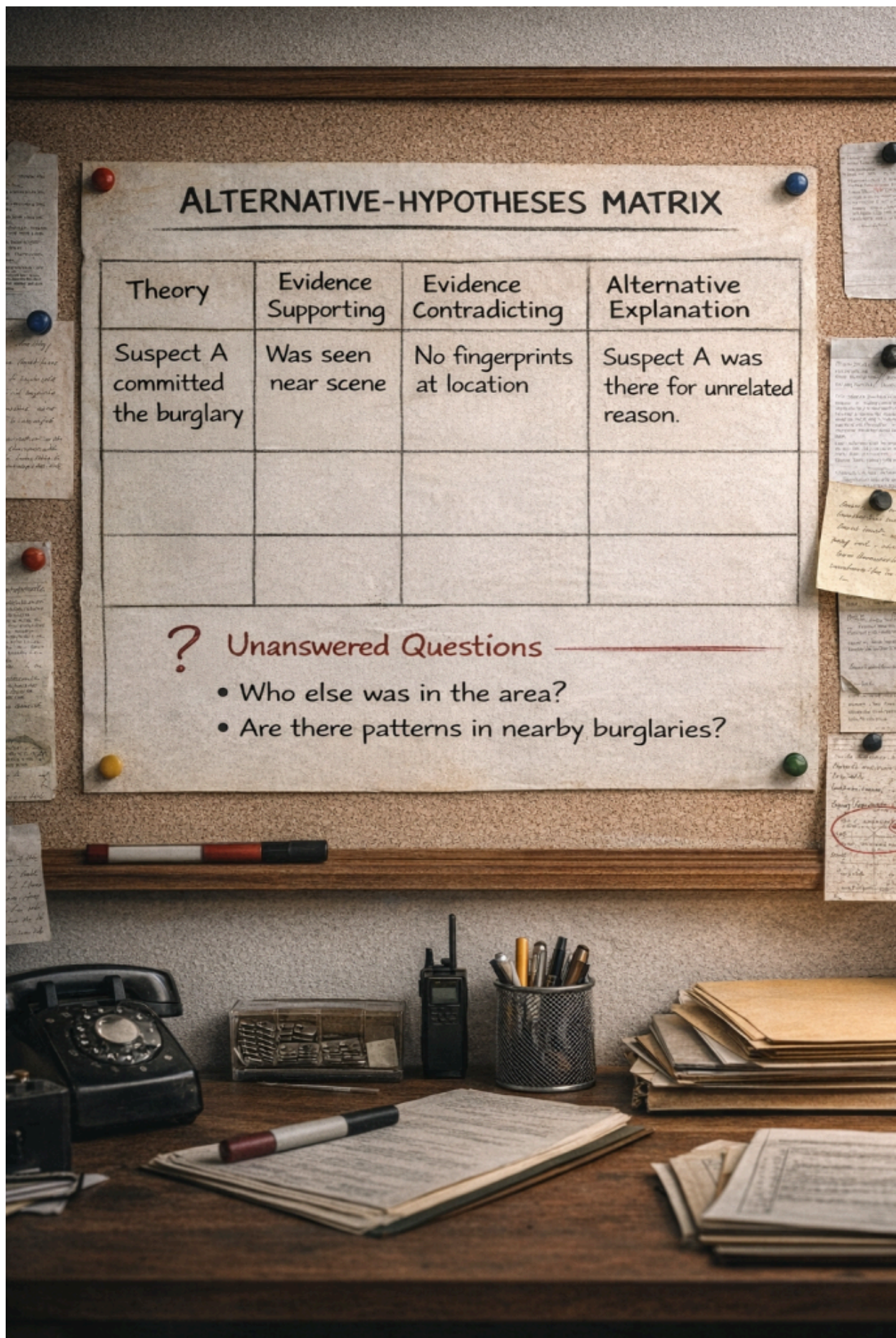
Pro Tip

When protected characteristics are not directly relevant to the investigation, leave them out of your reasoning and writing. Court education resources and model policing guidance both support fact-based decisions over stereotype-based interpretation.

2.8 Reducing Bias Through Better Process

The goal of reducing bias is not to make people perfect, but to make systems more accurate and fair. Research shows that debiasing works best when it combines awareness with clear steps. Just telling people to “be objective” is not enough. They need specific procedures for gathering, reviewing, and questioning information (Meterko & Cooper, 2021; Morewedge et al., 2015).

One strategy is to deliberately test alternative hypotheses. Instead of asking only how the evidence supports the leading theory, investigators should also ask what evidence would weaken that theory and what other explanations still fit the facts (Lenz et al., 2026; Rassin, 2020).



Alternative hypotheses matrix | Image by M. McHenry

Even keeping a simple table like this helps investigators pause and reflect more critically on each theory. Another strategy is sequential unmasking or other context management methods, which reduce exposure to irrelevant information during forensic or evidentiary review (Kassin et al., 2013; National Institute of Standards and Technology, 2021).

Peer review and case discussions can help too, especially if reviewers are encouraged to question assumptions instead of just agreeing with the main investigator. Good documentation is also important. When investigators write down why they made certain choices, it becomes easier to see if later decisions were based on facts or just following earlier ideas (Lidén, 2023).

Investigative interviewing practices also matter. Information-gathering approaches reduce the pressure to force a case into an early guilt framework. International interviewing guidance emphasizes fairness, rapport, planning, and careful evaluation of information rather than coercive, guilt-presumptive methods (United Nations, 2021). This approach helps protect both the investigation and the people involved in it.

Finally, organizations play a central role. Bias reduction is stronger when agencies build it into training, supervision, review culture, and policy. A detective cannot carry that burden alone. However, putting these reforms into practice can be challenging. Many agencies face resource constraints, limited time, or competing priorities, which can make it difficult to implement changes quickly or on a large scale. Still, even small steps (such as regular peer review, open case discussions, or adding clear documentation practices) can make a positive difference. For example, introducing a peer-review process for major cases could lead investigators to catch overlooked inconsistencies before cases reach prosecutors. As a result, agencies may report fewer wrongful arrests, leading to greater confidence among both staff and leadership that errors are being identified before they affect an outcome. These types of practical changes show that even with limited resources, progress is possible and real improvements can be made. If an agency rewards quick closure more than careful accuracy, bias risks rise. If an agency values documentation, review, openness to correction, and evidence-based practice, bias risks fall.

Pro Tip

Make bias review part of routine case work, not a special event after a problem appears. The

United Nations interviewing principles, National Center for State Courts resources, and NIJ-supported research all point toward structured habits rather than last-minute fixes.

Chapter Summary

Cognitive bias is a normal part of human thinking, but in criminal justice, it can have serious effects. Bias can change how a single piece of evidence is seen and how many pieces are combined into an overall judgment. It can shape the work of detectives, forensic examiners, prosecutors, defense attorneys, judges, and jurors. Bias often starts with early assumptions, grows through confirmation and tunnel vision, and becomes harder to spot as the case goes on.

Research shows that bias is not just a personal issue. It is also a problem with how the process works. If a system lets one early idea shape every later step, mistakes are more likely. But if the system encourages testing other ideas, controls how information is shared, uses careful language, supports independent review, and relies on evidence-based interviews, the risk of bias goes down. For investigators, the main lesson is clear: good decisions need not only hard work and experience, but also humility, structure, and a willingness to question your own assumptions.

End of Chapter Activities

Case Study Analysis

Case: The wrongful conviction of Timothy Cole

Timothy Cole was wrongfully convicted in Texas after a sexual assault victim identified him as the offender. He later died in prison, and DNA testing eventually established that another man committed the crime. The

case is frequently used to illustrate how eyewitness error, investigative assumptions, and failure to revisit weak points in a case can contribute to wrongful conviction (Garrett, 2016; Innocence Project, n.d.).

Your task: Write a case analysis that explains how cognitive bias may have influenced the investigation and legal process in this case. In your response, identify at least three points where decision-makers may have become locked into a mistaken theory. Discuss how confirmation bias, tunnel vision, or evidence integration problems may have played a role. Then propose a practical set of safeguards that could have reduced the risk of error, including at least one investigative safeguard, one evidentiary safeguard, and one courtroom safeguard.

Choose Your Own (Detective) Adventure

Skills Lab 1: Competing Theories Chart

Create a chart for a fictional case with three columns labeled “Lead Theory,” “Alternative Theory,” and “What Evidence Would Distinguish Them.” Fill in the chart using a case scenario from your instructor and explain how this tool can reduce tunnel vision.

Skills Lab 2: Report Language Audit

Take a sample police report and highlight words or phrases that sound like conclusions rather than facts. Rewrite the report using neutral language that describes behavior, timing, and evidence without unsupported labels.

Skills Lab 3: Bias Snowball Map

Using a wrongful conviction case assigned by your instructor, create a step-by-step map showing how one early assumption may have influenced later decisions. End your map with a paragraph explaining where the chain could have been interrupted.

Skills Lab 4: Context Control Plan

Design a one-page policy for how investigators in a small agency should share information with forensic examiners. Your plan should explain what information is necessary, what information should be withheld when possible, and why.

Skills Lab 5: Falsification Memo

Write a short memo from the perspective of a detective who believes a suspect is likely guilty but must now test that belief. Identify five specific questions, tasks, or evidence requests designed to challenge the theory rather than confirm it.

Questions That Change How You Think

1. Why do you think cognitive bias is often harder to see in real time than after a wrongful conviction is discovered?
 2. What is the difference between confidence and accuracy, and why does that difference matter in criminal justice?
 3. How can a series of small, ordinary decisions create a major injustice even if no one intended harm?
 4. Why is tunnel vision a system risk rather than just a personal weakness?
 5. How should investigators respond when evidence that seemed strong at first begins to look weaker later?
 6. What role should supervisors play in reducing bias during serious investigations?
 7. How can case language in reports influence prosecutors, judges, and jurors before they ever hear live testimony?
 8. Should agencies require formal bias review in major cases, or would that slow investigations too much? Explain your reasoning.
 9. How can criminal justice professionals stay respectful and specific when discussing people from groups that are often stereotyped?
 10. Which bias-reduction strategy in this chapter seems most useful to you, and why?
-

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This chapter was developed from publicly available research reports and guidance documents. It is intended as a teaching resource and does not constitute legal advice or official policy. Readers should consult local laws and agency policies for specific guidance.

CHAPTER 3: INTERROGATIONS AND CONFESSIONS

Dr. Michael McHenry

Chapter 3: Interrogations and Confessions

Learning Objectives

By the end of this chapter, students should be able to:

- Explain the purpose of interrogation, the difference between interviewing and interrogating, and the major legal rules that shape custodial questioning in the United States.
- Describe how interrogation methods, suspect vulnerabilities, and situational pressures can increase the risk of false confessions.
- Evaluate evidence-based reforms that can improve accuracy, fairness, and reliability in interrogation practice.

Chapter Overview

Interrogation sits at the center of many criminal cases because it is one of the few moments when investigators may hear a suspect explain events in their own words. Investigators use questioning to gather information, compare statements against known facts, explore inconsistencies, assess possible defenses, and sometimes obtain admissions or confessions. A confession can be powerful evidence because it appears to come directly from the accused person. Still, a confession is not automatically accurate. Research in psychology and law shows that some confessions are true, some are partly true, and some are false. That distinction matters because

a false confession can redirect the whole case, strengthen weak evidence, discourage further investigation, and contribute to wrongful conviction (Kassin et al., 2010; Perillo & Kassin, 2011).

To illustrate the importance of ethical practices in real terms, consider two contrasting scenarios. In the first, a teenager is questioned late at night after being taken into custody for a burglary. The investigator, convinced of the suspect's guilt, uses repeated accusations, refuses to accept denials, and suggests that confessing will result in leniency. After hours of pressure and little rest, the suspect confesses, but later recants and claims the statement was made just to escape the situation. In the second scenario, investigators interview a suspect using an information-gathering approach: they clearly explain the process and rights, allow breaks, and ask the suspect to describe events from their own perspective. The interview is fully recorded and contradictions are explored carefully. The resulting statement, whether incriminating or not, stands on firmer ground because it is more likely to reflect actual events rather than pressure or fatigue.

This chapter explains how modern interrogation developed, why confession evidence carries such weight, and how pressure, fatigue, deception, social influence, and vulnerability can shape what happens inside the interview room. It also explains why many researchers, courts, and professional organizations now support moving away from confession-driven practices and toward information-gathering methods that seek accurate and reliable information first. The larger lesson is ethical as well as practical. Interrogations and interviews matter because they are not only tools for solving cases. They are moments where the justice system tests whether it can pursue the truth without cutting corners, distorting evidence, or exploiting human vulnerability. That is why lawful process, careful documentation, and respect for the person being questioned are not side issues. They are central to whether the evidence can be trusted later (Meissner et al., 2016; United Nations, 2021). Recent official guidance from the United Nations and UNODC describes effective interviewing as rapport-based, non-coercive, and aimed at accurate information rather than confession-driven pressure (UNODC, n.d.).

A useful way to see this difference is to compare two possible approaches to the same case. In one version, investigators enter the room already convinced of guilt, confront the suspect early, and use pressure to force a choice between confession and continued denial. In another version, investigators begin by planning carefully, building rapport, and asking the suspect to describe events step by step. In the second approach, the interviewer listens closely, asks open-ended questions, and compares the account with timelines, physical evidence, and independent facts. If contradictions emerge, those contradictions are explored without immediately turning the process into a psychological contest. If the suspect later admits involvement, that statement can then be evaluated against independent evidence. This kind of approach is important because it shows students that ethical interviewing is not about being passive or naive. It is about using methods that are more likely to produce information that is accurate, defensible, and useful in court.

3.1 What Interrogation Is, and How It Differs from Interviewing

In criminal investigations, people often use the terms “interview” and “interrogation” as if they mean the same thing. They do not. An interview is usually a broader fact-finding conversation. It may involve witnesses, victims, complainants, suspects, or anyone else who may have information relevant to the case. The goal is usually to learn, clarify, and document what the person knows. For example, an investigator might interview a store clerk who witnessed a robbery, asking open-ended questions to gather details about what the clerk saw, heard, and remembers, with the aim of collecting reliable information to aid the investigation. An interrogation is narrower and more focused on suspects. It usually occurs when investigators believe the person may have committed the offense and want to obtain incriminating information, resolve contradictions, or secure an admission or confession. For instance, if the police identify a suspect based on evidence and bring them in for questioning, the session may shift to an interrogation, with the investigator confronting the suspect about inconsistencies in their story and seeking to clarify their involvement in the offense (Kassin et al., 2010; Madon et al., 2019).

Slow Down and Think: *A detective brings a suspect into a small room, closes the door, says the evidence already proves the case, and begins asking why the person did it. Has this interaction moved beyond simple interviewing? How might that shift change the suspect’s stress level and decision-making?*

That distinction matters because the structure of the conversation changes the psychology of the event. In an information-gathering interview, the investigator is trying to understand what happened, what the person knows, and what details can be tested. In a confession-driven interrogation, the investigator may begin with the belief that the suspect is guilty and then use strategies designed to move the suspect toward admission. This shift affects everything: tone, question style, interpretation of silence, treatment of denials, and the meaning assigned to hesitation or uncertainty. Research has shown that once an investigator begins from a presumption of guilt, confirmation bias can shape the whole interaction. Innocent behavior may be read as deception, denials may be dismissed too quickly, and questioning may become more leading and more coercive than the investigator realizes (Kassin et al., 2010; Narchet et al., 2011).

Reflect for a moment on your own instincts and habits. What cues or behaviors might lead you to misinterpret an innocent person’s silence or uncertainty as evidence of guilt? Testing your own assumptions about silence and hesitation is an important step toward avoiding confirmation bias in real investigative situations.

From the outset, it is important to recognize that the ethics of interrogation are grounded in an accuracy-first

approach: the guiding aim should always be to obtain information that is both reliable and lawfully obtained, honoring legal, psychological, and moral responsibilities alike. Historically, interrogation in the United States moved away from open physical abuse and toward psychological pressure. That shift was important. It reduced some obvious forms of brutality. But it did not remove the risk of coercion. Modern methods may avoid physical violence while still creating strong pressure through isolation, confrontation, repeated accusation, theme development, minimization, maximization, false evidence claims, and long questioning sessions. In practice, this means an interrogation can look orderly and professional on the surface while still placing a suspect under very heavy psychological strain (Leo, 2008; Ofshe & Leo, 1997).

This is why many professional organizations now draw a clearer line between interviewing and interrogation and encourage practitioners to think more carefully about what they are trying to accomplish. The College of Policing in the United Kingdom, the High-Value Detainee Interrogation Group, and the United Nations all emphasize planning, rapport, open-ended questioning, active listening, and information gathering rather than early guilt assumptions. These approaches are not weaker because they are less confrontational. They are stronger because they are more closely aligned with what research tells us about memory, communication, and the conditions under which people provide accurate information. Official College of Policing materials continue to describe suspect interviewing under the PEACE framework as planning and preparation, engage and explain, account, clarification and challenge, closure, and evaluation (College of Policing, 2022a).

Readers should also understand the ethical point here. The difference between interviewing and interrogation is not just a technical distinction. It reflects two different views of the investigator's job. One view sees questioning mainly as a way to secure a confession. The other sees questioning as a disciplined process of finding out what happened. The second view better protects accuracy, fairness, and public trust.

Many professional organizations now encourage investigators to think more carefully about this difference. The College of Policing, the High-Value Detainee Interrogation Group, and the United Nations all emphasize planning, rapport, open-ended questioning, and information gathering rather than early guilt assumptions. These approaches are not softer because investigators care less about the truth. They are stronger because they are designed to improve the accuracy of the information collected (College of Policing, 2022a, 2022b; Meissner et al., 2016; United Nations, 2021).

Watch Your Step

General Public: “If the police are only talking to someone, it is just an interview.”

Expert: The label matters less than the actual structure of the encounter. When questioning becomes custodial, accusatory, and confession-focused, the legal and psychological stakes rise quickly.

Pro Tip

A strong investigator should decide before questioning whether the goal is to gather information, test a statement, or seek an admission. When that purpose is unclear, questioning often becomes messy and more vulnerable to bias. The College of Policing and the HIG both support planning the interaction in advance and matching the method to the investigative goal. That habit protects both the case and the investigator.

3.2 The Legal Foundation of Custodial Interrogation

Modern interrogation law in the United States is shaped heavily by the Fifth Amendment privilege against self-incrimination and by the Supreme Court's decision in *Miranda v. Arizona*.

Miranda v. Arizona is important because it set the basic rule that, before custodial interrogation, police must inform a suspect of key rights: the right to remain silent, that anything said can be used in court, the right to consult with an attorney and have counsel present during questioning, and the right to appointed counsel if the person cannot afford one. The Court held that statements from custodial interrogation are generally inadmissible unless the prosecution can show these safeguards were given and validly waived. The larger reason the case matters is that the Court recognized custodial interrogation as inherently pressuring and concluded that procedural protections were needed to protect the Fifth Amendment privilege against self-incrimination (Justia, n.d-a; United States Courts, n.d.).

If you were the investigator in a custodial interrogation today, what specific steps would you take to ensure that a suspect's rights are protected? What would you record, what questions would you ask, and what tactics would you avoid to uphold both the letter and the spirit of the Miranda safeguards?

In terms of case details, Ernesto Miranda was arrested in Phoenix after police connected him to the kidnapping and rape of an 18-year-old woman through circumstantial evidence. He was questioned for about two hours, confessed, and signed a written statement saying the confession was voluntary. But police had not told him he had the right to remain silent, the right to an attorney, or that his statements could be used against him in court. His confession was admitted at trial, and he was convicted and sentenced to 20 to 30 years in prison. The Arizona Supreme Court affirmed that conviction, but the U.S. Supreme

Court reversed it on June 13, 1966 (Justia, n.d.-a; Justia, n.d.-b).

The outcome of the Supreme Court case was not that Miranda walked free forever. Instead, the Court reversed the conviction because the confession had been obtained without constitutionally adequate safeguards, and it sent the case back. The decision established what became known as the Miranda warnings and made clear that questioning must stop if the person invokes the right to remain silent or asks for counsel. The Court also placed a heavy burden on the government to show a knowing and intelligent waiver if interrogation proceeds without a lawyer present (Justia, n.d.-a).

After the Supreme Court ruling, Arizona retried Miranda without using the excluded confession. At the retrial, prosecutors relied on other evidence, including testimony from Twila Hoffman, who said Miranda had told her he committed the crime. Miranda was convicted again in 1967, and the Arizona Supreme Court affirmed that second conviction in 1969. The U.S. Supreme Court later denied review (Justia, n.d.-b).

Miranda was later paroled in 1972 after serving several years of his sentence. After his release, he became a minor local celebrity and reportedly signed “Miranda cards” used by police officers. He later violated parole and returned to prison for a period, then was released again. In 1976, he was stabbed to death in a Phoenix bar fight. The suspect in Miranda’s killing invoked Miranda and his right to remain silent (Justia, n.d.-a; Library of Congress, n.d.).

Miranda is important not because it prevents questioning, but because it tries to make questioning more lawful, fair, and reviewable. It reminds investigators that a confession is not valuable simply because it exists. It becomes valuable when it is obtained through a process that protects rights and supports reliability.

A custodial interrogation means questioning by law enforcement after a person has been taken into custody or otherwise deprived of freedom of movement in a significant way. In Miranda, the Court held that statements

made during custodial interrogation are generally inadmissible unless the suspect is warned of the right to remain silent, that statements can be used in court, the right to an attorney, and the right to appointed counsel if the person cannot afford one (*Miranda v. Arizona*, 1966). Later, in *Dickerson v. United States*, the Court confirmed that *Miranda* remains a constitutional rule rather than just a policy choice that Congress could replace by statute (*Dickerson v. United States*, 2000).

Slow Down and Think: A

15-year-old student is pulled into an office at school and questioned by an officer with the door shut. The officer tells the student to be honest and says leaving is not really an option right now. Would age matter in deciding whether this was custodial? Why should investigators think differently about youth during questioning?

Miranda did not prohibit police questioning. It created procedural safeguards around custodial interrogation. Those safeguards matter because custody and questioning together create a unique decision environment. A person who is isolated, uncertain, confronted by authority, and worried about what happens next may make choices that do not reflect calm and fully informed reasoning. The law recognizes that pressure. Psychology helps explain how that pressure works in practice (Kassin et al., 2010; Rogers et al., 2011).

For investigators, these safeguards have practical effects on daily procedures. Police must now deliver *Miranda* warnings and ensure suspects understand their rights before custodial questioning begins. If a suspect invokes their right to silence or to an attorney, questioning must stop. Officers are also expected to avoid tactics that might undermine these rights, document the delivery and waiver of warnings, and ensure any statements obtained are the result of a process that can

withstand legal review. This means careful planning, clear communication, and thorough documentation are required at each step, making interviews and interrogations more structured and defensible in court.

Other cases refined these rules. In *J.D.B. v. North Carolina*, the Supreme Court held that age can matter in deciding whether a person was in custody for *Miranda* purposes because children and adolescents may not understand police questioning the same way adults do (*J.D.B. v. North Carolina*, 2011). In *Missouri v. Seibert*, the Court rejected a deliberate two-step tactic in which police first obtained an unwarned confession and then gave *Miranda* warnings before seeking the same confession again (*Missouri v. Seibert*, 2004). These decisions show that the law is concerned not only with whether a statement was obtained, but also with the fairness and reliability of the process used to obtain it.

Still, constitutional doctrine does not solve every reliability problem. In *Colorado v. Connelly*, the Court held that a confession is not involuntary under due process doctrine without coercive police activity, even when the person's mental state is seriously impaired (*Colorado v. Connelly*, 1986). That rule matters legally, but it

does not mean the statement is psychologically trustworthy. A confession can satisfy constitutional doctrine and still raise deep questions about comprehension, suggestibility, or reliability. Students need to see that legal admissibility and scientific reliability are not always the same thing.

Table 3.1 Legal Admissibility and Psychological Reliability of Confessions: A Side-by-Side Comparison

Category	Legal Admissibility	Psychological Reliability
Main focus	Focuses on whether the confession meets procedural and constitutional requirements.	Focuses on whether the statement is accurate and reflects the true memory, understanding, and intentions of the person who gave it.
Key question	Was the statement obtained in a way that satisfies legal rules, such as proper warnings and the absence of unlawful coercion?	Is the statement likely to be trustworthy, accurate, and based on genuine recollection rather than pressure, confusion, or compliance?
How it is evaluated	Determined by courts using rules of evidence, constitutional safeguards, and case law.	Evaluated using psychological research on memory, suggestibility, vulnerability, decision-making, and the effects of interrogation conditions.
Main concerns	Whether rights were respected, whether proper procedures were followed, and whether police conduct crossed legal limits.	Whether the person understood the situation, whether the statement was influenced by fatigue, fear, suggestibility, misunderstanding, or external pressure, and whether the account is likely accurate.
Role of suspect vulnerability	A confession may still be admitted if police conduct is legally proper, even when the suspect has vulnerabilities such as youth, mental illness, cognitive limitations, or high suggestibility.	Suspect vulnerability is central because it may affect comprehension, resistance to pressure, and the likelihood that the statement reflects confusion, compliance, or false belief rather than true memory.
Possible result	A confession that satisfies legal requirements is often allowed into evidence.	A confession may appear legally valid yet still be less trustworthy from a psychological standpoint.
Important takeaway	Legal admissibility asks whether the statement can be used in court.	Psychological reliability asks whether the statement should be trusted as an accurate account of what actually happened.

Understanding this distinction helps prevent the mistake of treating a confession as reliable just because it is admitted in court. Both lenses are essential for fully evaluating the value and risks of confession evidence.

Washington adds an important practical safeguard through Chapter 10.122 RCW, the Uniform Electronic Recordation of Custodial Interrogations Act, which sets out recording requirements, notice rules, preservation duties, and exceptions for covered custodial interrogations. Recording does not stop every problem, but it creates a much fuller record for courts, lawyers, jurors, supervisors, and later reviewers. Similar laws and policies exist in many other American jurisdictions, and recording requirements are also well established in countries such as the United Kingdom and Australia. These developments reflect a widening consensus that full recording is one of the best protections for both suspects and investigators because it captures not just the statement, but the process that produced it.

For readers, the larger point is this: the law cares about interrogation because interrogation is a high-risk activity. It combines state power, uncertainty, and human vulnerability in a way that can produce either valuable evidence or serious injustice. Ethical investigators understand that legal safeguards are not obstacles. They are part of what makes the evidence more trustworthy.

Watch Your Step

General Public: “If someone waived Miranda, everything that follows is fair and reliable.”

Expert: A Miranda waiver addresses one legal issue. It does not automatically answer whether the person understood the process, resisted pressure, or gave an accurate statement.

Pro Tip

Think of Miranda as a floor, not a ceiling. Meeting the basic warning requirement does not mean the interview was well done or that the statement will be persuasive and trustworthy. The U.S. Supreme Court cases, the IACP, and Washington’s recording law all point to the same practical lesson: **careful process matters**. A lawful interrogation should also be a transparent and well-documented one.

3.3 Why Confessions Are So Powerful, and Why That Creates Risk

Confessions are often treated as some of the strongest evidence in a criminal case. Judges, jurors, investigators, and even defense attorneys may view a confession as uniquely persuasive because it appears to come directly from the accused person. Research shows that confession evidence can shape how people interpret everything

else in the case. Once a confession exists, weak corroboration may start to look stronger than it really is, and ambiguous evidence may be read through a guilt-centered lens (Kassin et al., 2010; Perillo & Kassin, 2011).

This power becomes dangerous when people assume that an innocent person would never confess. Research, case studies, and exoneration records show that this assumption is false. Innocent people do sometimes confess, admit, or make highly damaging statements under pressure. Sometimes they do so to escape an exhausting situation. Sometimes they do so because they are confused, frightened, vulnerable, or convinced that cooperation will help them. Sometimes they begin to doubt their own memory after being confronted repeatedly with claimed evidence of guilt. In fact, researchers have found that false confessions are present in a large portion of wrongful conviction cases. For example, the Innocence Project reports that approximately 25 percent of DNA exoneration cases in the United States involved false confessions or admissions (Innocence Project, n.d.). False confessions are not rare mistakes at the margins. They are a recognized feature of wrongful conviction cases, including cases later overturned by DNA evidence (Drizin & Leo, 2004; Kassin et al., 2010; Innocence Project, n.d.).

Scholars often describe three broad types of false confession. A voluntary false confession occurs without direct police pressure, sometimes because a person wants attention, wants to protect someone else, or has another personal reason for stepping forward. A compliant false confession occurs when a person confesses to escape a stressful interrogation, obtain a promised benefit, or avoid a threatened harm. An internalized false confession occurs when a person begins to distrust memory and may come to believe the act was committed, even without genuine recollection. These categories matter because they show that false confessions are not one thing with one cause. It can emerge from very different pathways, but all of them create serious reliability problems (Ofshe & Leo, 1997; Perillo & Kassin, 2011).

False confessions are especially dangerous because they do not stay isolated. They can contaminate the entire case. Investigators may stop looking seriously at alibis. Witnesses may seem less important. Forensic evidence may be interpreted in light of the confession instead of independently. If the suspect repeats facts supplied during questioning, the confession may sound especially persuasive to later decision-makers even though those details did not truly come from the suspect. This is one reason that confessions must be tested, not merely admired.

Because confessions are so powerful, the way they are obtained matters deeply. Some interrogation models are designed primarily to secure admissions. Others are designed to gather

Slow Down and Think: *After six hours of questioning, a suspect finally says, “Fine, I did it,” but only after the investigators have repeated the timeline several times and corrected the suspect’s details. How much of that statement came from the suspect? What would you want to check*

*before treating the confession
as reliable?*

information first and test it carefully. To understand why current reform efforts increasingly favor information-gathering approaches, students first need to understand how the traditional accusatorial model works and why it creates both practical and ethical concerns.

This is one reason professional reform efforts now focus less on getting a confession at all costs and more on obtaining accurate information. A true confession supported by independent evidence can be powerful and appropriate. A confession that cannot be tested, that was produced after heavy pressure, or that contains facts supplied by investigators should raise serious concern (Kassin et al., 2010; Meissner et al., 2017).

Watch Your Step

General Public: “Nobody would confess to something they did not do.”

Expert: Real cases and research show otherwise. Under enough pressure, fatigue, confusion, or fear, some innocent people make choices that look irrational from the outside but feel like immediate survival inside the interrogation room.

Pro Tip

Never treat a confession as self-proving. A reliable confession should be tested against independent, case-specific facts that were not fed to the suspect by investigators. The Innocence Project, HIG research, and major false confession literature all support the same principle: **corroboration matters.** Good investigators verify before they celebrate.

3.4 The Reid Model and the Risks of Accusatorial Interrogation

In the United States, many interrogation methods are referred to as accusatorial. These methods involve the investigator confronting the suspect, demonstrating confidence in the suspect's guilt, discouraging denials, and using psychological tactics to elicit a confession. The Reid approach is the most well-known example. However, it is important to note that the way it is applied can vary across agencies, trainers, and investigators (Inbau et al., 2013; Kassin et al., 2010; Miller et al., 2018).

Table 3.2 Summary of the Reid Interrogation Steps and Their Intended Purpose

Step	Reid Step	What This Step Is Designed to Do
Pre-step	Fact analysis and investigative review	Before formal interrogation begins, the investigator reviews the known facts, evidence, and case details to decide whether the suspect should be questioned further and whether guilt is believed to be indicated.
Pre-step	Behavior Analysis Interview	This is presented as a non-accusatory interview phase used to gather background information, observe responses, and assess whether the suspect appears truthful or deceptive before moving into a formal interrogation.
Step 1	Positive confrontation	The investigator directly states or strongly implies that the evidence shows the suspect committed the offense. The purpose is to communicate certainty and push the suspect away from denial and toward admission.
Step 2	Theme development	The investigator offers explanations, excuses, or moral justifications that make the offense seem more understandable or less blameworthy. This is intended to make confession feel psychologically easier.
Step 3	Handling denials	The investigator attempts to interrupt, discourage, or limit denials so the suspect does not build confidence in resistance. This step is meant to keep the suspect from becoming more committed to a claim of innocence.
Step 4	Overcoming objections	When the suspect gives reasons why they could not or would not have committed the offense, the investigator reframes those objections so they fit the confession theme rather than support innocence.
Step 5	Keeping the suspect's attention	The investigator works to maintain the suspect's focus on the conversation and reduce withdrawal, distraction, or resistance. The goal is to keep the suspect engaged and responsive as pressure continues.
Step 6	Handling passive mood	Once the suspect appears discouraged, quiet, or emotionally worn down, the investigator uses that shift as an opportunity to move the suspect closer to admission. This stage is meant to capitalize on reduced resistance.
Step 7	Presenting an alternative question	The investigator offers two incriminating choices, often one framed as more understandable or less serious than the other. The purpose is to make it easier for the suspect to agree to some form of guilt.
Step 8	Obtaining an oral confession	After the suspect begins to accept one version of events, the investigator encourages the person to state the admission aloud. This marks the shift from resistance to spoken confession.
Step 9	Converting the confession into a recorded statement	The investigator seeks to preserve the confession in written, signed, audio, or video form so it can later be used as formal evidence in the case.

To better understand the risks and controversies surrounding accusatorial interrogation, students should know how the Reid model is typically described. According to official Reid materials, the process has three parts: fact analysis, a non-accusatory behavioral analysis interview, and, if the investigator thinks guilt is likely, a nine-step interrogation (John E. Reid & Associates, 2013). Fact analysis means reviewing the case evidence before questioning. The behavioral analysis interview is the first interview to assess truthfulness and determine

whether the suspect should be interrogated. If the investigator believes the suspect is guilty, the process moves to the formal interrogation stage.

In more detail, the nine steps in the Reid interrogation are typically listed as positive confrontation, theme development, handling denials, overcoming objections, keeping the suspect's attention, handling passive mood, presenting an alternative question, getting an oral confession, and turning that into a written or recorded confession (John E. Reid & Associates, 2013). Each step is designed to bring the suspect closer to admitting guilt.

Starting with positive confrontation, the investigator seeks to show certainty. The investigator tells the suspect, either directly or indirectly, that the evidence points to guilt. This step is important because it removes doubt and encourages the suspect to see that denying will not work. Building on this, the next step is theme development, in which the investigator provides reasons that make the act seem understandable, excusable, or less serious. This is supposed to make it easier for the suspect to confess.

Following theme development, the process advances to handling denials. The model tells investigators to stop or interrupt repeated denials so the suspect does not gain confidence in resisting. After that comes overcoming objections. If suspects offer reasons they could not have done it, the investigator tries to turn those reasons into arguments for why the act still occurred. The following steps, keeping the suspect's attention and handling passive mood, are meant to keep up the pressure and use moments when the suspect seems quiet, discouraged, or tired.

As the interrogation proceeds, one of the Reid model's best-known parts is the alternative question. The suspect is given two incriminating options, with one made to seem more understandable or less serious. This is meant to make it easier for the suspect to admit guilt by limiting their choices. The last steps involve obtaining an oral confession and then turning it into a written, signed, or recorded statement.

Within the Reid model, each step serves a practical purpose: to lower resistance, increase compliance, and move the suspect from denial to admission. However, adopting a scientific and ethical perspective, some aspects of this approach entail known risks. Questioning that assumes guilt can make investigators too certain too soon and increase pressure on the suspect instead of fairly testing the evidence (Kassin et al., 2010; Narchet et al., 2011). Theme development and minimization can suggest moral excuses or leniency, making confession seem the safest or easiest choice, even if the statement is unreliable (Kassin et al., 2010; Russano et al., 2005). Further, tactics that interrupt or ignore denials can also prevent investigators from

Slow Down and Think: *An investigator tells a suspect, "We already know what happened. This is your chance to help yourself. Good people make mistakes." Is that statement neutral? Could it communicate both certainty of guilt and a*

promise that confession will improve the outcome?

hearing information that might challenge their original theory. When these methods are used alongside deception, fatigue, youth, cognitive vulnerability, or prolonged questioning, confession may become the easiest way out rather than a true and voluntary statement (Campbell Collaboration, 2024; Kassin et al., 2010; Narchet et al., 2011; Russano et al., 2005).

Building on this critique, researchers have pointed out several tactics in accusatorial interrogation that are concerning. Maximization means stressing how serious the situation is, how strong the evidence is, or what bad things could happen if the suspect denies guilt. Minimization means downplaying blame, offering excuses, or suggesting the act was understandable. Even without a direct promise, minimization can make it seem like confessing will lead to better treatment. Using false evidence is especially risky because it can make innocent suspects feel trapped or even doubt their own memory. In addition, long interviews, especially late at night or over many hours, can cause fatigue, stress, and a strong desire to escape (Kassin et al., 2010; Perillo & Kassin, 2011; Russano et al., 2005; Scherr et al., 2014).

Against this background, recent research highlights the importance of distinguishing these methods. A Campbell review found that accusatorial interrogation methods lead to more true and false confessions, while information-gathering and direct questioning help reduce false confessions and improve the quality of information (Campbell Collaboration, 2024). This does not mean accusatorial methods never get true confessions, but they do raise the risk of unreliable admissions, which is a big problem for a justice system that must tell the guilty from the innocent. For those entering the field, this evidence shows why it is better to use information-gathering techniques. By using open-ended questions, planning carefully, listening actively, and testing information instead of pushing for quick admissions, students can make their interviews more ethical and effective. Using these research-based methods not only lowers the risk of false confessions but also leads to fairer outcomes and builds public trust in the justice system.

Therefore, the main ethical lesson for students is that an interrogation model should not be judged only by how many admissions it gets. It should be judged by whether it helps investigators distinguish truth from error and whether the process can withstand scientific, legal, and moral review.

Watch Your Step

General Public: “Psychological pressure is harmless because it is not physical force.”

Expert: Psychological pressure can be powerful. Fear, isolation, fatigue, false evidence, and implied leniency can change decision-making in ways that are highly relevant to reliability.

Pro Tip

Be careful with themes that sound compassionate but push the suspect toward one answer. Minimization can feel like empathy, but it can still pressure a person into a damaging admission. The HIG, the United Nations, and the IACP all support approaches that seek accurate accounts instead of steering people toward confession. Respectful questioning is not the same thing as manipulative reassurance.

3.5 The PEACE Model and Evidence-Based Information-Gathering Practices

Because of concerns about false confessions and coercive questioning, many experts now support information-gathering models instead of confession-driven methods. As a response to these concerns, these approaches are often linked to the PEACE framework used in the United Kingdom and similar models in other countries. PEACE stands for Planning and Preparation, Engage and Explain, Account, Clarification and Challenge, Closure, and Evaluation. Official College of Policing materials still list these as the main phases of investigative interviewing (College of Policing, 2022).

Similar to the Reid model in its structure and intention, PEACE is also organized and intentional. However, it is important to recognize that the flow and purpose are very different. Instead of pushing the suspect toward confession through psychological pressure, PEACE focuses on carefully gathering, clarifying, testing, and evaluating information.

Table 3.3 Summary of the PEACE Interview Model and the Purpose of Each Stage

Step	PEACE Stage	What This Stage Is Designed to Do
P	Planning and Preparation	Before the interview begins, the investigator reviews the evidence, defines interview goals, identifies topics that need to be covered, considers the interviewee's needs or vulnerabilities, and plans the legal and logistical structure of the session. This stage is designed to improve organization and reduce guesswork.
E	Engage and Explain	The interviewer builds rapport, explains the purpose of the interview, outlines how the conversation will proceed, and makes expectations clear. This stage helps reduce confusion, promotes cooperation, and creates conditions that support better communication.
A	Account	The interviewee is invited to provide a full account, usually through open-ended prompts and narrative recall. This stage is designed to let the person describe events in their own words before the interviewer narrows the focus.
C	Clarification and Challenge	After the initial account, the interviewer asks follow-up questions, clarifies unclear points, explores missing details, and tests inconsistencies against known evidence. This stage is meant to strengthen the quality of information while still focusing on accuracy rather than pressure.
E	Closure	The interviewer ends the session in a clear and professional way, checks whether the interviewee wants to add or correct anything, and ensures the conversation closes without confusion or unnecessary abruptness. This helps preserve fairness and a clean record of the interaction.
	Evaluation	After the interview, the investigator reviews what was learned, assesses the quality of the interview, considers whether the goals were met, identifies new leads, and reflects on what should happen next. This stage treats the interview as part of an ongoing investigative process rather than a one-time event.

The first phase is Planning and Preparation. Before the interview, the investigator reviews the evidence, determines what is known and unknown, considers the interviewee's needs and possible vulnerabilities, sets the interview's goals, and addresses legal and practical issues. This phase matters because it reduces guesswork and helps the investigator start with a clear plan instead of relying on intuition or pressure.

The next phase is Engage and Explain. Here, the interviewer builds rapport, explains the purpose and structure of the interview, and sets expectations for the conversation. This is important because people who understand the process are more likely to communicate clearly and participate meaningfully. Rapport in this context is not about manipulation. It is a professional way to improve cooperation, reduce confusion, and support clear communication.

The main phase is Account, Clarification, and Challenge. The interviewer asks the person to tell their story, often using open-ended questions and letting them recall events in their own words. After the account, the interviewer asks clarifying questions, looks into unclear points, and later challenges any contradictions or inconsistencies using known facts and evidence. This phase matters because it lets the investigator hear the person's side before focusing the discussion. It also allows inconsistencies to be checked without assuming they mean guilt.

With the main questioning completed, the next stage is closure. The interviewer ends the session clearly and professionally, checks whether the interviewee wants to add or correct anything, and ensures the process ends smoothly without confusion. This is important because a clear ending helps keep a good record and supports fairness.

Following closure, evaluation is the last phase. After the interview, the investigator reviews what was learned, assesses the quality of the interview, identifies new leads, determines whether the goals were met, and considers next steps. This is important because it treats interviewing as part of a continuing investigation, not just a one-time contest.

Overall, the real difference between PEACE and Reid is not just that one is ‘nice’ and the other is ‘tough.’ The main distinction lies in both theory and practice. While the Reid model moves from suspicion to psychological persuasion for confession once the investigator believes the suspect is guilty, PEACE focuses on structured information gathering, testing evidence, and maintaining neutrality, even if the person is a suspect. Reid steps are meant to break resistance and get an admission, whereas PEACE stages are designed to gather, clarify, test, and evaluate information.

Take a moment to think about which approach fits the kind of investigator you want to be. Do you want to focus on getting quick admissions, or do you prefer careful, neutral information gathering that protects truth and fairness? Reflecting on this choice is not just about ethics; it can help shape your habits and reputation throughout your career.

Recent research supports this difference. Information-gathering methods lead to better rapport, more detailed stories, and a lower risk of coercion and false confessions. Accusatorial methods may get more admissions, but they also increase false ones. The latest Campbell review and official UNODC and United Nations guidance agree that rapport-based, non-coercive interviewing is more likely to get accurate memories, useful information, and fewer false confessions.

The Méndez Principles support this change by treating interviewing as a professional skill that respects rights. They stress legality, noncoercion, rapport, preparation, accountability, and the search for accurate information. These principles reject the idea that truth comes from domination or psychological tricks. Instead, they see interviewing as a careful process to get reliable information.

Electronic recording is another important best practice that fits well with the PEACE approach. Recording

Slow Down and Think: A

tired 17-year-old has been questioned for hours, says they want to go home, and keeps asking what will happen if they “just say yes.” What warning signs of vulnerability do you see? What should a careful investigator do next?

the whole interview captures what the suspect says, how the interviewer acts, the order of questions, and the context of the statement. This helps later reviewers judge if the confession was voluntary, reliable, and free from outside influence. It also protects investigators from false claims about what happened. Recording makes the system look at the whole process, not just the final statement.

Training is still essential. Investigators need to learn not just how to question people, but also the limits of lie detection, the reality of false confessions, the risks of minimization and false evidence, and why corroboration matters. Ethical interrogation is not passive; it is careful, strategic, and based on research.

In this way, the difference between Reid and PEACE is not just about style. It is about the main goal of questioning. If the goal is to get a confession quickly, accusatorial methods might seem appealing. But if the goal is to get accurate, detailed, and reliable information that helps tell the guilty from the innocent, research now supports information-gathering models like PEACE.

For investigators, the practical lesson is simple but important. Vulnerability should never be treated as an inconvenience. It should be treated as a signal to slow down, document carefully, consider support protections, and use methods that prioritize clarity and reliability over pressure (International Association of Chiefs of Police, 2018; United Nations, 2021).

Watch Your Step

General Public: “Only a person with a serious mental disorder would falsely confess.”

Expert: Some people face special vulnerabilities, but false confession is not limited to one group. Ordinary people under extraordinary pressure can also make damaging and unreliable decisions.

Pro Tip

When youth or other vulnerable people are involved, slow the process down and build extra

safeguards into the plan. The IACP and the Supreme Court's youth-related interrogation cases make clear that children and adolescents should not be treated like small adults in custodial settings. A rushed waiver or pressured statement may create more problems than answers. Careful process is part of good investigative judgment.

3.6 Why Some People Are More Vulnerable During Interrogation

Not everyone comes into an interrogation with the same ability to understand their rights, resist pressure, or think about long-term consequences. Young people are one of the most well-known vulnerable groups. Adolescents are often more likely to obey authority, focus on immediate relief, and have trouble understanding long-term legal effects. They may misunderstand Miranda warnings or give up their rights without fully knowing what they are losing (Redlich & Goodman, 2003; Redlich & Kassin, 2009; Rogers et al., 2011).

Vulnerabilities in interrogation can be divided into two main types: personal (or inherent) and situational (or contextual). Personal vulnerabilities include things like cognitive disabilities, mental illness, trauma, and communication problems. These are traits a person brings with them and do not depend on the environment. Situational vulnerabilities come from the conditions of the interrogation, such as lack of sleep, substance use, fatigue, high anxiety, isolation, or the stress of being in custody. Both types can make questioning harder, but knowing the difference helps investigators plan safeguards for each person's needs. Vulnerability does not mean someone cannot speak accurately. It means the interrogation setting may affect them more and make decisions less reliable under pressure (Kassin et al., 2010; Madon et al., 2019).

Slow Down and Think: *Two detectives are preparing for a serious felony interview. One wants to confront hard and early. The other wants to begin with rapport, narrative prompts, and careful evidence disclosure. Which plan is more likely to help distinguish a true account from a pressured one? Why?*

Even adults without obvious problems can become vulnerable if certain conditions add up. Being isolated, facing repeated accusations, being deceived, lacking sleep, feeling hungry, fearing harsher punishment, or

believing that innocence will protect them can all affect decision-making. Kassin's idea of the 'phenomenology of innocence' is important here. Innocent suspects may give up their rights, talk openly, or even agree to harmful statements because they wrongly think the truth will come out later. In reality, once a confession is made, it can become the main focus of the case (Kassin, 2005; Kassin et al., 2010).

Investigator bias can make these vulnerabilities worse. If an investigator quickly decides the suspect is lying, this belief can lead to more pressure, less patience, and less willingness to consider innocence. Research shows that what investigators expect can affect both how they question and the chances of getting true or false confessions (Narchet et al., 2011).

This means vulnerability should never be ignored. It is a key part of ethical interrogation. A vulnerable person is not a shortcut to solving a case. Vulnerability is a sign to slow down, keep good records, consider extra protections, and use methods that focus on clear communication instead of pressure. Practical safeguards include having an appropriate adult present for juveniles or people with disabilities, giving required breaks to reduce fatigue, using simple or age-appropriate explanations of rights, and providing interpreters or support when needed. That is why the IACP, the United Nations, and many reform groups stress caution, transparency, and developmentally informed practice (UNODC, n.d.).

Watch Your Step

General Public: "If investigators stop using pressure, suspects will never confess."

Expert: Research does not support that simple claim. Information-gathering approaches can still produce admissions and useful evidence while lowering the risk of unreliable statements.

Pro Tip

Record the entire custodial interrogation from start to finish whenever possible, not just the final statement. Partial recording can hide the very tactics and pressures that matter most when courts

later assess reliability. Washington's recording statute, the American Bar Association, and Duke Law School research on recording all point in the same direction. Transparency is one of the best protections for both suspects and investigators.

3.7 Confessions in Practice: What Investigators Should Do After a Statement Is Obtained

When a suspect admits or confesses, the investigation is not finished. In many ways, the most important work is just starting. Investigators should check if the statement is backed up by independent evidence, if the key facts came from the suspect and not from police suggestions, and if the timeline, details, and circumstances match what is already known (Kassin et al., 2010; Perillo & Kassin, 2011).

To connect classroom learning with real-world practice, readers should try making a 'post-confession audit' template. This tool can be a checklist or form to help review any confession. Include questions like: When and under what conditions did the confession happen? Did the suspect get breaks, food, water, and rest? Was the confession backed by independent evidence? Did the suspect volunteer key details, or were they suggested? Was the confession given freely and without pressure? Did the suspect seem vulnerable or confused? Was the whole interview recorded? Making a short audit form with these questions can help make sure every confession is reviewed fairly, increasing reliability and keeping high professional standards.

Investigators should also look at how the statement was made. How long did the questioning take? Did the person get breaks, food, water, or sleep? Were their rights explained clearly? Did the person seem confused, vulnerable, intoxicated, or too eager to please? Was any deception used? Was the whole interview recorded? These questions are important because a confession's reliability depends on both what was said and how it was obtained.

Corroboration needs to be specific. It is not enough if the suspect knew a detail that was public, already mentioned by investigators, or easy to guess. Strong corroboration comes from accurate, independent facts that only the real offender would know and that investigators can check without using the confession itself. This is one of the best ways to guard against false confessions.

Slow Down and Think: *A suspect confesses, but the*

confession contains several wrong details about the location of evidence and the timing of the offense. Would you treat those errors as minor, or as signs of a deeper reliability problem? What would you investigate next?

Supervisors, prosecutors, and defense attorneys should not treat a confession as the end of the investigation. Confessions are powerful evidence and need more careful review, not less. A good case review asks not just, ‘Did the suspect confess?’ but also, ‘Why did they confess, how was the confession obtained, what facts were checked independently, and what details still do not fit?’ This kind of review protects both justice and the quality of the case.

For investigators in Washington and across the United States, the main lesson matches modern expectations in recording laws, professional advice, and international standards. Good interrogations are legal, well planned, recorded, respectful, and based on evidence. They aim to find the truth, not to win a

psychological battle. This standard protects innocent people, supports strong prosecutions, and helps keep public trust in the justice system (College of Policing, 2022).

As you get ready for your future roles, think about how you can use these principles in your own work. Ethical and effective interviewing does not happen by chance; it takes commitment, self-awareness, and ongoing learning. Consider what you can do to make sure your questioning is always fair, accurate, and respectful of others’ rights. By following these standards, you help build a justice system that people can trust and that is truly fair.

Watch Your Step

General Public: “Once there is a confession, the investigation is basically finished.”

Expert: A confession should trigger verification, not complacency. The strongest cases test the statement against independent facts and keep looking for confirmation or contradiction.

Pro Tip

After any confession, build a short verification checklist before moving forward. Include independent corroboration, contamination review, vulnerability review, and a process review of how the statement was obtained. The HIG, the Innocence Project, and the core false confession literature all support this disciplined follow-up. A confession should open a verification phase, not close the file.

Chapter Summary

Interrogation is a high-stakes part of criminal investigation because statements from suspects can shape the entire direction of a case. In the United States, custodial interrogation is governed by important constitutional rules, especially Miranda, but legal compliance alone does not guarantee psychological reliability. Research shows that false confessions can occur, especially when investigators use accusatorial methods, false evidence ploys, minimization, lengthy questioning, or other forms of strong pressure. Youth and other vulnerable people may face especially high risk, but ordinary adults can also make unreliable admissions under stressful conditions (Kassin et al., 2010; Perillo & Kassin, 2011).

The strongest direction for modern practice is toward information-gathering, evidence-based interviewing, and interrogation. Professional organizations and research bodies increasingly support planning, rapport, careful use of evidence, full recording, and strong corroboration. For criminal investigators, the central lesson is clear. The goal is not to collect words that sound incriminating. The goal is to obtain accurate, trustworthy information in a fair and transparent way (Meissner et al., 2016, 2017; United Nations, 2021).

End of Chapter Activities

Case Study Analysis

Case: *Miranda v. Arizona*

In 1966, the U.S. Supreme Court decided *Miranda v. Arizona*, one of the most important interrogation cases in American criminal procedure. Ernesto Miranda gave a confession after custodial questioning, and the Court later held that suspects must be warned of key rights before custodial interrogation if the prosecution wants to use the statement in its case in chief (*Miranda v. Arizona*, 1966; *Dickerson v. United States*, 2000).

Your task: Write a case analysis explaining why the Court believed custodial interrogation created enough pressure to require special safeguards. Then connect that legal reasoning to modern psychological research on interrogation pressure and false confession. In your response, discuss these questions: Why are warnings important? Why are warnings alone not enough? How should investigators balance effective casework with the need to protect the reliability and fairness of statements? End by explaining how full recording and information-gathering practices would strengthen the kind of case issues raised in *Miranda*.

Choose Your Own (Detective) Adventure

Skills Lab 1: Interview or Interrogation?

Read a short questioning scenario assigned by your instructor. Identify the point at which the interaction changes from general interviewing to a more custodial or accusatory interrogation. Then explain why that change matters legally and psychologically.

Skills Lab 2: Confession Reliability Audit

Take a fictional confession transcript and highlight every detail that appears to come from the suspect. In a second color, mark any detail that appears to have been introduced or suggested by investigators. Write a short paragraph on how contamination can make a confession appear stronger than it really is.

Skills Lab 3: Vulnerability Checklist

Create a one-page checklist for investigators to use before questioning a juvenile or another vulnerable person. Your checklist should include age, fatigue, cognitive or communication concerns, need for breaks, comprehension of rights, and recording procedures.

Skills Lab 4: Reid and PEACE Comparison

Build a side-by-side chart comparing an accusatorial interrogation model with an information-gathering model. Focus on goals, assumptions, tactics, risk points, and likely effects on reliability.

Skills Lab 5: Post-Confession Verification Plan

Draft a follow-up investigative plan for a case in which a suspect has just confessed. Include at least five specific steps designed to test the statement through independent evidence rather than assume it is accurate.

Questions That Change How You Think

1. Why are confessions so persuasive to investigators, attorneys, judges, and jurors even when research shows they can sometimes be false?
2. What is the difference between a lawful interrogation and a reliable interrogation, and why does that difference matter?
3. How can minimization sound helpful while still creating pressure to confess?
4. Why might an innocent person waive Miranda rights and agree to talk?
5. How should investigators respond when a confession exists but the independent evidence is weak or inconsistent?
6. Should police deception ever be allowed during interrogation? Explain your position.
7. What extra protections should exist when questioning youth or other vulnerable people?
8. How does full recording change the way courts and investigators can evaluate a confession?
9. What are the biggest practical barriers to shifting from confession-driven methods to information-gathering methods in the United States?
10. If you were writing policy for a law enforcement agency, what three interrogation reforms would you require first, and why?

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This chapter was developed from publicly available research reports and guidance documents. It is intended as a teaching resource and does not constitute legal advice or official policy. Readers should consult local laws and agency policies for specific guidance.

CHAPTER 4: DECEPTION DETECTION AND POLYGRAPH SCIENCE

Dr. Michael McHenry

Chapter 4: Deception Detection and Polygraph Science

Learning Objectives

By the end of this chapter, students should be able to:

- Explain why detecting deception is difficult and describe what research shows about human lie detection accuracy.
- Evaluate the scientific strengths and limits of polygraph testing and other credibility assessment tools.
- Assess how investigators can respond to possible deception in lawful, fair, and evidence-based ways.

Chapter Overview

Investigators often face a tough question: Is this person telling the truth? This issue comes up in interviews, interrogations, background checks, courtrooms, intelligence work, workplace investigations, and national security. The appeal of detecting deception lies in its potential to make investigations more efficient and just: if investigators could reliably spot lies, cases would move faster, interviews would be easier, and fewer guilty people would escape consequences. A dependable way to detect lies could save time, reduce uncertainty, and

help decision-makers focus on the right person. This potential is a big reason why deception detection is so appealing. To better understand why this promise remains out of reach, let's look at a concrete example.

Imagine a workplace investigation where a manager is accused of misusing company funds. Investigators interview several employees, including the manager, who appears calm and confident when answering questions. If investigators judge honesty only by this behavior, they might miss small inconsistencies in the manager's story. Being overly confident in their ability to spot lies could lead them to overlook important evidence or focus on the wrong people. This example shows how the challenges of detecting deception can directly affect the outcome of real investigations.

The science of lie detection is more complicated than most people realize. People are not very good at spotting lies, and many common beliefs about lying are wrong (Bond & DePaulo, 2006; DePaulo et al., 2003; Porter & ten Brinke, 2009). For example, many think liars avoid eye contact, fidget more, or sound unsure. But research shows these signs can also appear in honest people who are nervous or under stress. This overlap makes detecting deception one of the hardest judgment calls in criminal investigations, as behaviors linked to lying can just as easily signal other emotions or personality traits. In the next section, we will outline how this chapter will address the complexities and implications of these findings.

This chapter explains what deception detection is, why it is so difficult, and how overconfidence can mislead investigators. You will learn how people often misunderstand verbal and nonverbal cues, how cognitive interviewing differs from common beliefs, and why polygraph testing remains debated even as some agencies use it (National Research Council, 2003; Vrij, 2016). The chapter also covers the legal and practical limits of polygraph evidence in the U.S. and explains why investigators should view deception detection as one part of a larger evidence process, not a shortcut to truth. Key takeaway: Treat deception detection as only one tool among many, not a sole solution.

This topic matters because mistakes in detecting deception can change the outcome of an investigation. If investigators wrongly think an honest person is lying, they might focus too much on that person, ask tougher questions, ignore useful information, or miss other leads. If they believe a dishonest person is telling the truth, they might overlook warning signs and miss the real problem. These mistakes can affect interviews, how evidence is understood, charging decisions, and even court outcomes. The legal consequences can be serious. For example, in the Central Park Five case (People v. Wise, 1990), excessive reliance on deception detection led to false confessions and wrongful convictions. Investigators focused too much on supposed inconsistencies and assumed deception, which resulted in years of legal battles, innocent people in prison, and later exoneration. So, students should see that deception detection is not just about spotting lies. It is about avoiding mistakes caused by weak assumptions, overconfidence, and tools that seem more scientific than they are. Investigators can reduce these risks by using structured interviews, seeking evidence from multiple sources, clearly documenting their decisions, and regularly reviewing their assumptions with colleagues. These steps

help reduce bias and overconfidence (Hoogesteyn & Severino, 2026), making investigations more reliable and fair.

4.1 Why Detecting Deception Is Harder Than People Think

Most people believe they can tell when someone is lying. Many investigators believe that experience makes them even better. Research does not strongly support that confidence. Across many studies, average lie detection accuracy is typically around 54-56 percent, only slightly above chance, and confidence in those judgments does not closely track actual accuracy (Bond & DePaulo, 2006; DePaulo et al., 1997). In other words, people often feel sure they are right even when they are not. This gap between confidence and actual accuracy is one of the most important lessons in this area.

That finding is difficult for many people to accept because lie detection feels like a skill that should improve naturally with practice. In many jobs, experience does help people notice meaningful patterns. But deception detection is different because the signals people rely on are often weak, ambiguous, or misleading. An investigator may believe they are getting better at reading people when, in fact, they are becoming more confident in their first impressions. That creates a dangerous combination in criminal justice: strong certainty paired with limited accuracy.

This pattern matters because strong confidence can create tunnel vision. If an investigator believes a suspect “looks deceptive,” they may interpret later statements, body language, and even evidence to fit that impression. Overconfidence can also reduce motivation to gather corroborating evidence, because the investigator feels the answer is clear (Colwell et al., 2006; Porter et al., 2010). Once that happens, deception judgments stop being one case detail and begin to shape the entire theory. Key takeaway: Overconfidence in lie detection can bias the entire investigative process.

To avoid this risk, pause and reflect: How might your first impression of a person’s truthfulness color your view of their statements or evidence? During an exercise or investigation, ask: “What evidence would challenge my initial belief?” Write down one step you could take to seek disconfirming information. This habit helps disrupt tunnel vision and improve objectivity.

Part of the problem is that deception does not produce one fixed set of signs. Lying can involve stress, but so can telling the truth. A person may avoid eye contact because they are frightened, ashamed, autistic, exhausted, grieving, or culturally

Slow Down and Think: A witness looks away, crosses their arms, and speaks softly during a homicide interview. Are those clear signs of lying? What other explanations should

an investigator consider before making a credibility judgment?

uncomfortable, not because they are lying. A person may fidget because of anxiety. Another person may lie while appearing calm and friendly. Human behavior is shaped by many factors, and that makes deception hard to detect from surface behavior alone (DePaulo et al., 2003; Vrij, 2008).

Students should also recognize that deception is not a single behavior. It is a mental act that can happen in many ways.

Some lies are simple and rehearsed. Some are spontaneous. Some involve outright invention. Others involve partial truth, omission, or misleading framing. Because lying can take many forms, it does not leave behind a single universal behavioral pattern. This is one reason deception detection remains such a difficult scientific and practical problem.

The larger lesson is that investigators should be cautious when they feel immediate certainty about whether someone is lying. A first impression may be meaningful, but it may also be wrong. Good investigators treat deception judgments as hypotheses to test, not answers to protect. For instance, if an investigator suspects a witness is being deceptive based on initial nervousness, rather than making accusations, the investigator can test this hypothesis by gently probing for more details, asking the witness to recount the event in a different order, or seeking independent evidence that supports or contradicts the story. This approach allows the investigator to gather more information before reaching any firm conclusions, making it more likely that deception or honesty will be revealed by the facts rather than by first impressions. This is why modern research urges investigators to be cautious. A deception judgment is not the same thing as proof. At most, a concern about deception should guide further questioning, evidence collection, and verification. It should not replace them (Vrij, 2016; Vrij et al., 2015).

Watch Your Step

General Public: “You can always tell a liar by the eyes.”

Expert: Eye contact is one of the most common stereotypes about deception, but research does not support gaze aversion as a reliable sign of lying. People may look away for many reasons that have nothing to do with dishonesty.

Pro Tip

When you think someone may be deceptive, write down the specific behavior you observed and at least two nondeceptive explanations for that same behavior. This habit helps slow the formation of premature conclusions. Research from the National Academies, work summarized by the College of Policing, and other evidence-based interview programs all support caution before treating demeanor as proof.

4.2 Popular Myths About Liars and What the Research Actually Shows

Many common beliefs about liars come from culture, television, movies, social media, and informal training rather than science. People often believe liars fidget more, avoid eye contact, touch their faces, shift posture, or speak too quickly. Yet one of the major meta-analyses in this field found that many of these cues are weak, inconsistent, or unrelated to deception (DePaulo et al., 2003). The problem is not that people never show stress when they lie. The problem is that the same behaviors appear in truthful people, too.

This is an important point for students because many of these myths feel intuitive. Popular culture teaches people to watch for “tells,” as if deception always leaks out through obvious body language. That idea is attractive because it makes lying seem easier to control. It suggests that a trained observer can simply read the body and find the truth. The research does not support that simple view. Many so-called deception cues are actually signs of discomfort, uncertainty, or arousal, and these conditions are common among innocent people being questioned about serious events.

Professional lie catchers are not automatically protected from these errors. Research comparing trained professionals with

Slow Down and Think: *An officer says a suspect must be lying because the suspect kept moving in the chair and would not sit still. What makes that conclusion weak? What kind of information would be more useful than posture alone?*

laypeople found that professionals are often more confident in their deception judgments, but not more accurate (Meissner & Kassin, 2002). Experience can increase certainty without improving performance. That combination is risky in criminal justice because it can make weak judgments feel stronger than they are. A professional who sounds decisive may be persuasive to coworkers, prosecutors, or jurors, even when the underlying judgment is not much better than guesswork.

Some police training models have taught investigators to rely on stereotyped verbal and nonverbal cues to identify deception. The behavioral analysis interview associated with the Reid method is one well-known example. (Buckley, 2025) Research has challenged the scientific basis of many of those cues. In one study, observers trained in the Reid approach were less accurate than untrained observers, yet felt more confident and reported more reasons for their conclusions (Kassin & Fong, 1999). In another study, the expected behavioral differences between liars and truth tellers did not appear as the model predicted (Vrij et al., 2006). While these findings point out serious flaws in myth-driven approaches, there is a constructive path forward. Evidence-based training models move beyond simple body language ‘tells’ and teach investigators to focus on gathering detailed, verifiable information, asking questions that increase cognitive demand, and using structured interviews to elicit more reliable cues to truth or deception. Rather than relying on intuition and stereotypes, these approaches help investigators build their skills on what research has actually shown to work.

This does not mean that all training is useless. It means that training built on myths can make people worse by giving them misplaced confidence. Students should understand that a bad model of deception is often more dangerous than no model at all because it encourages people to trust unsupported judgments. When investigators are taught to look for the wrong signs, they may miss the real value of careful interviewing, evidence testing, and corroboration.

The full picture, then, is that many beliefs about liars are socially powerful but scientifically weak. The more a person relies on myths, the more likely they are to confuse nervousness with guilt, confidence with truth, and intuition with evidence. This does not mean investigators should ignore behavior. It means they should stop treating popular myths as diagnostic facts. Good investigators pay attention to inconsistency, detail, timing, and how accounts fit independently verified evidence. They do not assume that nervous behavior equals deception (Vrij, 2016).

Watch Your Step

General Public: “If a trained investigator says someone is lying, that judgment is probably right.”

Expert: Training only helps when the training itself is scientifically sound. Some deception training has increased confidence without increasing accuracy.

Pro Tip

Do not confuse demeanor with dishonesty. A person can look calm and still lie, or look distressed and still tell the truth. The National Research Council and a large body of deception research warn against overreliance on folk cues such as fidgeting or gaze behavior. The safest course is to treat demeanor as context, not as an answer.

4.3 What Cues Can Help, and Why Context Still Matters

Although no single cue reliably reveals deception, some patterns can become more informative when investigators use structured methods. Research suggests that liars may provide less detailed accounts, produce less compelling narratives, appear less forthcoming, and show signs of greater cognitive strain than truth tellers in some settings (DePaulo et al., 2003; Hartwig & Bond, 2014). These differences are not magic signals. They are patterns that may become clearer when questioning is well-designed.

This distinction matters. The research does not suggest that investigators should stop paying attention altogether. Rather, it suggests that useful indicators of deception are more likely to emerge from a person's account's content and structure than from simplistic body-language myths. A deceptive person may have trouble maintaining consistency across detailed questions, may offer fewer sensory details, may respond less naturally to unexpected prompts, or may show signs of greater mental effort when trying to manage a fabricated account. But even those patterns are not proof. They are clues that may be useful when interpreted carefully and in context.

This is where cognitive approaches to lie detection have gained attention. Instead of focusing on body language myths, cognitive methods increase the mental demands of the interview or ask questions in ways that make

lying harder and truth-telling easier. Examples include asking a person to describe events in reverse order, asking unexpected questions, or probing details that a truthful person can retrieve more naturally than a deceptive person can invent (Vrij, Fisher, & Blank, 2017; Vrij, Blank, & Fisher, 2018).

These methods matter because lying is often cognitively demanding. A liar may need to invent details, remember what has already been said, avoid contradictions, manage self-presentation, and respond quickly to new questions. Truth tellers also think hard, but they can often rely more directly on memory. By increasing cognitive load or by asking for details that are harder to fake, investigators may make the difference between truthful and deceptive accounts more visible.

Slow Down and Think:

During a fraud interview, one employee gives a short, vague story with few details. Another gives a long, polished story that sounds almost too smooth. Should the investigator assume the vague person is lying and the polished person is truthful? What additional steps would make the assessment stronger?

A meta-analysis found that cognitive lie-detection approaches outperformed more traditional approaches in overall detection accuracy (Vrij et al., 2017). Researchers have also found value in using multiple cues together rather than treating one behavior as decisive. In one review, deception could be detected more accurately from combined indicators than from any single “best cue” alone (Hartwig & Bond, 2014). This is an important correction to the myth that a single behavior, such as eye contact or posture, can reveal the truth on its own.

Still, these methods do not create certainty. They depend on context, planning, and careful interpretation. A person with memory difficulties, limited language proficiency, trauma-related stress, or cognitive disability may also struggle with complex questioning even while telling the truth. For that reason, respectful and inclusive interviewing remains essential.

Investigators must avoid turning scientifically informed tools into one-size-fits-all assumptions.

The deeper lesson for students is that better methods do not remove the need for humility. In investigative practice, humility means being open to alternative explanations, willing to revisit initial judgments, and ready to consider the possibility of error. Even improved deception-detection strategies do not automatically produce truth. They are tools that may help generate better judgments when combined with careful interviewing, corroboration, and awareness of human variation.

Another promising line of work examines language patterns through computer-assisted analysis. Meta-analytic findings suggest that deceptive statements may differ from truthful statements in word count, complexity, pronoun use, and other linguistic features, but these effects are still context dependent and should not be treated as stand-alone proof (Hauch et al., 2015). Technology may help organize information, but it does not solve the deeper scientific problem that lying does not look exactly the same across people and situations.

Watch Your Step

General Public: “Science has finally found the one cue that exposes liars.”

Expert: No single cue works like a switch. The strongest research supports carefully planned interviewing strategies and multiple indicators, not a single body language trick.

Pro Tip

Use questioning strategies that help truthful people remember and make it harder for deceptive people to improvise. Asking for sequence changes, sensory details, or unexpected clarifications can be more useful than watching hands and feet. Research on cognitive interviewing for deception, along with guidance from organizations such as the College of Policing and HIG-related work, supports planned questioning over intuition-based guesswork.

4.4 What the Polygraph Measures, and What It Does Not

The polygraph is one of the most recognizable tools associated with deception detection. A polygraph examination typically records physiological responses such as respiration, cardiovascular changes, and skin conductance while the examiner asks structured questions. The basic idea is that deceptive answers may produce different physiological reactions than truthful answers (American Polygraph Association, 2011; National Research Council, 2003). For many people, the polygraph feels scientific because it uses equipment, measurements, and charts. That appearance can make it seem more objective than ordinary human judgment. But it is important to understand exactly what the device is doing. The machine is not reading the mind. It does not detect lies directly. It measures changes in bodily arousal during questioning.

It is important to understand what the polygraph does not measure. The machine does not directly detect lies; instead, it measures physiological responses like sweating, heart rate, and breathing. In essence, the polygraph measures sweat, while humans infer motive. (Council, 2003) This distinction helps anchor the device's limitation: the polygraph captures physical signals of arousal or stress, but it is the examiner (not the machine) who makes the crucial jump from arousal to an interpretation of deception. Those bodily states can occur for many reasons besides lying. For example, a truthful person may react strongly because they are anxious, angry, embarrassed, frightened, or afraid of not being believed. A deceptive person may react very little if they are calm, practiced, or using countermeasures. That is why interpretation depends heavily on the testing format, the examiner, the quality of the questions, and the situation itself (National Research Council, 2003; Saxe et al., 1985).

This is the central scientific problem with the polygraph. It depends on an inference. The examiner observes a physiological reaction and infers its meaning. But physiological arousal is not unique to deception. It is a broad human response. This means that the usefulness of the test depends on how much confidence we can place in that inference, and that is exactly where the controversy begins.

Slow Down and Think:

A truthful suspect is extremely nervous because they have never dealt with police before and are terrified of being falsely accused. How might that fear affect a polygraph exam? Why does this matter when people talk about the test as if it directly measures lying?

Supporters of polygraph testing argue that some validated techniques perform above chance and may be useful in selected contexts. The American Polygraph Association reported higher criterion accuracy estimates for certain validated formats in its 2019 meta-analytic review. Critics respond that laboratory and field estimates vary, ground truth is often difficult to establish, and even moderate error rates can have serious consequences in criminal justice or personnel screening (American Polygraph Association, 2019; Kotsoglou & Stern, 2024; National Research Council, 2003).

The National Research Council reached a cautious conclusion. It found that polygraph testing can discriminate between lying and truth-telling at rates above chance in specific-event testing, but accuracy is imperfect, vulnerabilities

remain, and performance is insufficient to justify broad confidence, especially in screening contexts where the base rate of actual wrongdoing is low (National Research Council, 2003). That point is central. Even a tool that performs better than chance may still create too many false positives or false negatives when used in high-stakes decisions.

Students should leave this section with one core understanding: the polygraph is best thought of as an arousal-measuring system that depends on interpretation, not as a machine that directly reveals truth or lies. That

distinction is essential for understanding both its continuing use and its continuing controversy. That is why investigators should think of the polygraph as a controversial inference tool, not as a truth machine. It may influence investigative strategy, but it should never replace careful interviewing, corroboration, and evidence testing.

Watch Your Step

General Public: “The polygraph machine can tell when your body proves you are lying.”

Expert: The polygraph measures physiological reactions, not lies themselves. A strong reaction may reflect fear, surprise, anger, or many other states besides deception.

Pro Tip

Before relying on a polygraph result for any investigative decision, ask what the test actually measured and what alternative explanations exist for the physiological response. The National Academies, along with many critical reviews, make clear that arousal is not the same thing as deception. Good investigators keep the distinction in view and avoid overstating what the instrument can do.

4.5 The Scientific Debate Over Polygraph Accuracy

The debate over polygraph accuracy has lasted for decades. Some research reports stronger performance for certain formats, especially specific-incident testing conducted under controlled conditions. Other reviews stress that the evidence base is uneven and that polygraph results remain vulnerable to examiner judgment,

testing conditions, countermeasures, and error (American Polygraph Association, 2019; National Research Council, 2003).

Slow Down and Think: A

detective says, “The polygraph came back deceptive, so now we know who did it.” What is wrong with that statement? How should a careful investigator describe the result instead?

This debate continues because the question is not simply whether the polygraph performs better than guessing. The deeper question is whether it performs well enough, under real-world conditions, to justify the weight people often give it. In science and law, “better than chance” is not always enough. In a criminal or employment context, even a modest error rate can have major consequences for a person’s liberty, career, reputation, or future.

One of the major scientific concerns is the problem of false positives. If an innocent person reacts strongly during a test, that person may be labeled deceptive even though they told the truth. False negatives can also occur when a deceptive person

does not react in the way the examiner expects. In a criminal investigation, either kind of error can distort the case. A false positive can steer attention toward an innocent person. A false negative can reduce scrutiny of a guilty person.

Another concern is that people often treat a polygraph result as more precise than it is. A label such as “deception indicated” can sound definitive, even when the underlying science remains probabilistic and disputed. Kotsoglou and Stern (2024) argued that newer claims about combining polygraph methods with machine learning do not solve the core inferential problems. Better computing does not automatically remove the ambiguity in what physiological reactions mean. The scientific debate also affects how experts should talk about the test. A careful expert can describe the method, the research, and its limits. An overly confident expert may encourage courts, jurors, investigators, or employers to assign more certainty to the test than the evidence supports. That is one reason polygraph evidence has faced so much legal resistance.

Another important point for students is that the scientific argument is not only about numbers. It is also about meaning. A test result may seem simple, but the path from physiology to deception is not. That gap between measurement and meaning is the heart of the controversy. Once students see that, the legal hesitation about polygraphs makes much more sense. For students in criminal investigation, the lesson is not that every polygraph result is meaningless. The lesson is that scientific controversy should make investigators humble. When a method remains disputed, it should be used cautiously, explained honestly, and backed by independent evidence.

Watch Your Step

General Public: “Even if the polygraph is not perfect, it is close enough to trust most of the time.”

Expert: “Close enough” is not a simple idea in law and investigation. Even modest error rates can become serious when the stakes include liberty, employment, reputation, or national security.

Pro Tip

When you hear a polygraph result, translate it into a more careful statement before acting on it. A better phrasing is that the examiner interpreted the person’s physiological responses as more consistent with one conclusion than another under a particular testing format. The National Research Council and critical legal scholarship both support this more limited framing. Precise language protects against overclaiming.

4.6 Polygraph Use in Law, Employment, and Government Practice

Polygraph testing occupies a mixed place in American law and policy. In private-sector employment, the Employee Polygraph Protection Act generally prohibits most private employers from requiring or requesting lie detector tests, with limited exceptions for certain security services, pharmaceutical roles, and specified workplace investigations under strict conditions (U.S. Department of Labor, n.d.-a, n.d.-b). (Bailey et al., 1990) This federal law reflects concern about abuse, privacy, and reliability.

Slow Down and Think: *A law enforcement applicant fails a hiring polygraph and is told the result raises concerns about honesty. Should that result be treated the same way as evidence in a criminal trial? Why might policymakers separate screening use from courtroom use?*

That restriction is important because it shows that lawmakers recognized the risk of giving employers too much power to demand a controversial test in ordinary workplace settings. The law reflects a judgment that even if the polygraph may appear useful, its risks are significant enough that most private employers should not be free to use it broadly.

At the same time, polygraph testing continues to be used in some government contexts, especially for personnel security, counterintelligence, and law enforcement screening or investigation. Federal agencies within the defense and intelligence communities maintain policies governing when and how polygraphs may be used in support of security determinations or credibility assessment programs (Department of Defense, 2010, 2015; Office of the Director of National Intelligence, 2020, 2021). Continued use in these

settings does not resolve the scientific debate. It shows that agencies sometimes decide a tool has operational value even while acknowledging limits and controversy.

That distinction matters. Government use does not automatically mean the science is settled. It may instead reflect a policy decision that the tool is worth using in a narrow context despite uncertainty, often because decision-makers believe the consequences of missing deception are especially serious in national security settings. Students should understand that operational use and scientific consensus are not the same thing.

Washington offers another useful example. Under WAC 139-07-040, law enforcement hiring agencies may use polygraph examinations or other truth verification assessments under defined conditions for employment-related purposes (Washington Administrative Code, n.d.). That administrative rule concerns hiring and background evaluation, not courtroom proof of guilt in a criminal case. This difference matters because the same tool may be treated differently depending on the setting and purpose.

Polygraph use can also raise fairness concerns. Employment tests and selection procedures must be administered in compliance with broader civil rights and employment law principles. (Employment Tests and Selection Procedures, 2008) A test that appears scientific may still raise equity concerns if used carelessly or without adequate safeguards (Equal Employment Opportunity Commission, n.d.). For this reason, it is essential that investigators consider key ethical principles when using polygraph or other credibility assessment tools. Ethical best practices include respecting individual rights and privacy, ensuring that the test is voluntary and informed consent is obtained, providing clear communication about the nature and limits of the test, and carefully safeguarding the confidentiality of test results. Investigators should also question whether the use of such tools is truly necessary, ensure that results are never used as the sole basis for investigative or

employment decisions, and regularly review procedures to minimize bias and prevent misuse. Ultimately, responsible professionals must ask not only whether a test is legal, but whether its use is fair, justified, and supports the broader goals of justice and equity. The full picture is that polygraph use in the United States is not all-or-nothing. It is restricted in some settings, tolerated in others, and debated in all of them. Students should see that this patchwork reflects unresolved tension between practical desire and scientific caution. Investigators should therefore ask a more careful question than “Is the polygraph legal?” The better question is “In this setting, for this purpose, with these consequences, how much weight should the result receive?” That question is harder, but it is much closer to responsible professional judgment.

A clipboard with a silver clip at the top, holding a white sheet of paper with a blue header. The header contains the title 'Polygraph Self-Checklist for Investigators' and a subtitle 'Think before you polygraph: Make careful, ethical decisions.' Below the header are three sections: 1. Voluntariness (orange icon of a hand holding a person), 2. Necessity (green icon of a question mark), and 3. Corroboration (blue icon of a magnifying glass over a document). Each section has a question and a 'Yes'/'No' checkbox. At the bottom, a yellow warning box with an exclamation mark icon contains the text 'If any answer is "No"... STOP & RETHINK! Seek guidance before you proceed.'

Polygraph Self-Checklist for Investigators

Think before you polygraph: Make careful, ethical decisions.

1. Voluntariness

Has the person **freely consented** and been fully **informed** about the test and its limits? ☒ Yes ☐ No

2. Necessity

Is the polygraph *truly necessary* for this situation? ☒ Yes ☐ No

Could questions be resolved another way?

3. Corroboration

Do I have *independent evidence* to support the conclusions? ☒ Yes ☐ No

Not just the polygraph.

! If any answer is "No"...

STOP & RETHINK!

Seek guidance before you proceed.

Watch Your Step

General Public: “If government agencies still use the polygraph, the science must be settled.”

Expert: Continued use shows that agencies believe the tool may have practical value in some settings. It does not mean the underlying scientific controversy has disappeared.

Pro Tip

Always identify the setting before you interpret the meaning of a polygraph result. A hiring screen, a counterintelligence exam, and a criminal investigation do not raise the same questions or require the same level of proof. Federal policy sources, Washington rules, and Department of Labor guidance all show that context matters. Investigative decisions should match the legal purpose of the test.

4.7 Polygraph Evidence in Court and the Problem of Overpersuasion

Courts have long been skeptical of polygraph evidence. In *United States v. Scheffer* (1998), the Supreme Court upheld a rule excluding polygraph evidence in military trials and stated that there was no scientific consensus on its reliability. The Court also expressed concern that polygraph evidence could intrude on the jury’s role in judging credibility and could lead to collateral litigation about testing procedures, examiner qualifications, and interpretation (*United States v. Scheffer*, 1998).

Slow Down and Think:

A prosecutor says, “We cannot use the polygraph at trial, but it helps us know who is telling the truth.” Why might that statement still be risky? How could that mindset affect case decisions even before trial begins?

This case is important because it shows that legal concerns about polygraphs are not solely about scientific disagreement. It is also about the role of the jury. Credibility is usually a question for jurors to decide by weighing all the evidence together. A polygraph result may seem to offer a shortcut to that judgment, and courts worry that jurors may give the machine too much authority.

These concerns remain important. Even when courts disagree about precise admissibility rules, a polygraph result may carry an “aura of infallibility” that encourages jurors to defer to the machine or the examiner instead of evaluating credibility themselves (Wiener, 1999). That is a serious issue because credibility judgments in court involve far more than physiological recordings. They involve context, corroboration,

competing evidence, and the burden of proof.

Because of these concerns, courts in many jurisdictions have either excluded polygraph evidence or admitted it only under narrow conditions. The point for students is not to memorize every jurisdiction’s rule. The point is to understand why courts hesitate. A disputed scientific tool can carry outsized persuasive force if judges and jurors think it is more objective than it really is. This concern extends beyond the courtroom. In investigations, a deceptive polygraph result may influence detectives, supervisors, prosecutors, or employers in ways that are not always transparent. Even when the result is not admitted at trial, it may still shape case decisions. That is why ethical caution and strong documentation matter.

The larger lesson is that polygraph evidence can be dangerous not only because it may be wrong, but also because it may sound more certain than it deserves. This problem of overpersuasion is central to why many courts remain wary.

Watch Your Step

General Public: “If a polygraph is not admissible, it must be completely useless.”

Expert: Admissibility and usefulness are not the same question. A tool can influence investigations while still being too disputed or too prejudicial for broad courtroom use.

Pro Tip

Separate investigative influence from evidentiary value. A result that shapes your next steps should still be treated as tentative unless it is backed by independent facts. The Supreme Court's reasoning in *Scheffer*, along with later legal commentary, shows why credibility technologies can be more persuasive than their scientific foundation justifies. Good investigators resist that pull.

4.8 Other Credibility Technologies and Why Investigators Should Be Careful

The desire for faster or simpler lie detection has led to interest in other tools besides the polygraph. These include voice stress analysis, facial thermal imaging, automated language analysis, and newer machine-learning approaches. Some of these tools show intriguing findings in laboratory research. Others have produced inconsistent or weak results in applied settings (Haddad et al., 2002; Hauch et al., 2015; Kotsoglou & Stern, 2024).

This interest is understandable. New technologies often promise efficiency, objectivity, and scientific precision. They may appear attractive to investigators and organizations because they seem to offer a more modern and less subjective way to assess credibility. But students should approach these tools with the same caution used for the polygraph. A new tool is not automatically valid.

Voice stress analysis is a useful example. A National Institute of Justice-supported study examining voice stress technology raised significant concerns about its performance and reliability as a deception-detection tool (Haddad et al., 2002). Facial thermal imaging has also shown some promise in research, but investigators must remember that stress responses can be triggered by many causes unrelated to lying, which creates a risk of false positives (Warmelink et al., 2011).

Newer computational systems often sound impressive because they involve artificial intelligence, automation, or machine learning. Yet the same core scientific issue remains. These systems still depend on assumptions about what patterns are associated with deception and whether those patterns generalize across real people, real stakes, and real investigative settings. A more complex tool is not automatically a more valid one.

That is the key point. Technology can make a system more sophisticated without making it more accurate. Algorithms may detect patterns, but if the meaning of those patterns is uncertain, the technology may simply reproduce old weaknesses in a newer form. For students, this is an important reminder that innovation should not be confused with proof.

For investigators, the safest position is scientific modesty. New technologies may help organize data or highlight areas for follow-up, but none should be treated as a stand-alone measure of truthfulness. The best investigative practice remains careful interviewing, corroboration, documentation, and openness to alternative explanations.

The full picture across this chapter is that deception detection is a field full of strong claims, public fascination, and significant scientific limits. Good investigators do not ignore these tools, but they do not surrender judgment to them either. They ask what the tool measures, what it does not measure, how much error it carries, and whether its results fit with the rest of the case.

As next steps, students should seek out opportunities to apply structured interviewing methods, stay informed about current research, and practice critically evaluating evidence from different sources. Engaging with case studies or simulated interviews can help build these skills in a practical setting. By exploring reputable scientific literature and discussing findings with peers or mentors, students can deepen their understanding of what works, what does not, and why rigorous thinking is essential in this field. These habits will serve students well in their studies and future careers, helping them become investigators who approach deception detection with care, skepticism, and a commitment to fairness.

To keep your curiosity sharp, consider this: What is one deception-detection claim or technique you could test in practice next week? How might your own results challenge or confirm what you have learned here? Let these questions guide your continued inquiry, reminding you that the most important discoveries in this field may come from what you are willing to examine for yourself.

Chapter Summary

Deception detection is one of the most difficult tasks in criminal investigation. People tend to overestimate their ability to spot lies, and many common beliefs about lying, such as gaze aversion or fidgeting, are not reliable indicators. Research suggests that lie detection can improve when investigators use structured questioning, multiple indicators, and cognitively demanding interview methods, but even then certainty remains limited (Bond & DePaulo, 2006; Hartwig & Bond, 2014; Vrij et al., 2017).

Polygraph science reflects the same tension. The polygraph may perform above chance in some contexts, but it measures physiological responses rather than lies themselves, and its accuracy remains contested. Courts, lawmakers, and agencies have therefore treated it differently depending on the setting. In private employment it is generally restricted, in some government settings it is still used, and in court it remains highly controversial (National Research Council, 2003; U.S. Department of Labor, n.d.-a; *United States v. Scheffer*, 1998). The central lesson for investigators is clear: concerns about deception should guide further inquiry, not replace evidence. Good investigators verify. They do not guess and call it science.

End of Chapter Activities

Case Study Analysis

Case: *United States v. Scheffer*

In *United States v. Scheffer* (1998), the U.S. Supreme Court upheld a rule excluding polygraph evidence in military trials. The Court emphasized the lack of scientific consensus about reliability, concerns about the jury's role in judging credibility, and the risk of distracting side disputes over testing procedures and examiner qualifications.

Your task: Write a case analysis explaining why the Court viewed polygraph evidence as uniquely problematic. Then connect that legal reasoning to the scientific issues discussed in this chapter. In your response, answer these questions: Why does the absence of scientific consensus matter in a criminal case? Why might jurors give a polygraph result too much weight? Should a tool be allowed to strongly influence an investigation if

courts remain skeptical of its reliability? Finish by explaining how a careful investigator could acknowledge a polygraph result without allowing it to dominate the case.

Choose Your Own (Detective) Adventure

Skills Lab 1: Myth Versus Evidence

Create a two-column chart. In the first column, list five common beliefs about liars, such as gaze aversion or fidgeting. In the second column, explain what the research says about each belief and why relying on it could mislead an investigator.

Skills Lab 2: Polygraph Weight Assessment

Read a short fictional case in which a suspect “fails” a polygraph. Write a memo explaining how much weight, if any, the detective should give that result. Your memo must address independent corroboration, alternative explanations for the physiological reaction, and the danger of tunnel vision.

Skills Lab 3: Better Questions, Better Data

Draft ten interview questions designed to assess credibility without relying on body language stereotypes. Include at least three questions that increase cognitive demand and three that seek details the statement could later be verified against.

Skills Lab 4: Screening Versus Criminal Proof

Compare two uses of polygraph testing, one in personnel screening and one in a criminal investigation. Explain how the stakes, legal rules, and proper meaning of the results differ in each setting.

Skills Lab 5: Technology Skeptic Checklist

Design a one-page checklist for evaluating any new deception technology, including voice stress tools, AI-based systems, or other credibility devices. Your checklist should ask about validity, false positives, false negatives, transparency, legal use, and the need for independent evidence.

Questions That Change How You Think

1. Why do people continue to believe strongly in body language myths about liars even when research does not support those beliefs?

2. What is the difference between a behavior that looks suspicious and evidence that actually proves deception?
 3. How can investigator confidence become a danger in deception-related judgments?
 4. Why is it important to remember that the polygraph measures physiology rather than lies?
 5. Should law enforcement agencies use polygraphs in hiring if courts remain skeptical of them as evidence? Explain your reasoning.
 6. How might a false positive polygraph result distort a criminal investigation?
 7. What makes cognitively informed interviewing stronger than intuition-based lie detection?
 8. How should investigators adapt credibility assessment practices for people who are anxious, traumatized, autistic, young, or otherwise vulnerable?
 9. Do you think newer AI-based deception tools are likely to solve the problems discussed in this chapter, or mostly rename them? Why?
 10. If you were writing agency policy, what rules would you set for any use of polygraph or other truth verification tools?
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This chapter was developed from publicly available research reports and guidance documents. It is intended as a teaching resource and does not constitute legal advice or official policy. Readers should consult local laws and agency policies for specific guidance.

CHAPTER 5: EYEWITNESS MEMORY, FALSE MEMORY, AND EYEWITNESS IDENTIFICATION

Dr. Michael McHenry

Chapter 5: Eyewitness Memory, False Memory, and Eyewitness Identification

Learning Objectives

By the end of this chapter, students should be able to:

- Explain how eyewitness memory works and why memory is not a perfect recording of events.
- Describe the major factors that affect eyewitness accuracy, including estimator variables, system variables, and false memory influences.
- Evaluate evidence-based practices for conducting eyewitness identification procedures in fair, reliable, and legally sound ways.

Chapter Overview

Eyewitness evidence is often very influential. If a witness identifies someone and says, “That is the person I saw,” it can shape the entire case. Investigators may focus on that person, prosecutors may feel more certain, and jurors are often convinced because the witness seems confident. People tend to trust eyewitness testimony because it feels personal and straightforward, as if the witness were directly answering the main question.

Ronald Cotton was wrongly convicted in 1984 because a victim confidently identified him. DNA tests later proved his innocence and identified the real offender. This case shows that honest, confident witnesses can make serious mistakes.

But research in psychology and law shows that eyewitness memory is not like a video recording. People do not store events perfectly and replay them later without changes. Instead, memory takes in bits of information, stores them imperfectly, and then rebuilds the event when recalling it. Many factors can affect this process, including stress, lighting, attention, time delays, suggestions, growing confidence, and the manner in which identification procedures are conducted (Loftus, 1979; Wells & Olson, 2003; Wixted & Wells, 2017). Someone can be honest and sincere, but still make mistakes.

This chapter explores the science behind eyewitness memory, what leads to false memories and mistaken identifications, and the best ways for investigators to work with eyewitnesses. You will learn why some situations strengthen memory while others weaken it. You will also see how choices like lineup instructions and feedback can either protect accuracy or quietly distort it. That is why working with eyewitnesses requires real care. Poor procedures can make an identification seem stronger than the witness's memory really is. For criminal investigators, this topic matters because mistaken eyewitness identification has led to many wrongful convictions, especially in cases later overturned by DNA evidence (Garrett, 2011; Innocence Project, n.d.; Wells et al., 2020). This does not mean eyewitnesses are never helpful; they often are. But these cases show that eyewitness evidence is most useful when investigators understand how memory works and protect it from errors. The goal is not to distrust every witness, but to treat memory as valuable and fragile evidence.

To protect the value of eyewitness evidence in practice, investigators should take several concrete steps: ask open, non-leading questions that encourage witnesses to speak in their own words; fully document the witness's original description as soon as possible, before any suspect is shown; carefully record the instructions given and the witness's exact words during identification procedures; avoid any verbal or nonverbal cues that might influence the witness's selection; and always document both positive identifications and nonidentifications with equal detail. By focusing on accurate documentation and neutral procedures, investigators can help ensure that eyewitness evidence is both trustworthy and useful. In real courtrooms, missing or incomplete documentation has led to major setbacks (even overturned convictions) when key procedural or memory questions could not be answered later. In some cases, a lack of early records made it impossible for prosecutors to defend a witness's identification, showing how every step in these best practices can have serious consequences at trial.

5.1 Memory Is Reconstructive, Not a Recording

A key idea in this chapter is that memory does not work like a camera. People do not store every detail of an event or replay it perfectly later. Instead, memory involves encoding, storage, and retrieval. Each stage can be affected by attention, emotion, expectation, and later information (Loftus, 1979; National Research Council, 2014). A witness may truly believe their memory is accurate and still be wrong.

Encoding refers to what gets into memory in the first place. A person cannot remember clearly what was never noticed clearly. If the event happened quickly, in poor lighting, from a distance, or during a frightening confrontation, the witness may never have had a clear opportunity to encode the offender's face. In other words, the problem may begin at the very start. The witness may do their best later, but the original memory may already be weak due to conditions at the scene.

Storage refers to what happens over time. Memories can weaken, change, or be influenced by later conversations, media reports, or repeated questioning. People often think of memory as sitting unchanged inside the mind until it is needed. Research shows that this is not how it works. Memory can shift while it is stored. Details can fade. New information can slip in. A witness may become more certain about something over time, even if the original memory was not very strong.

Retrieval refers to the act of remembering. Remembering is not like opening a file and reading it. It is more like rebuilding the event from what is available at that moment. The way a question is asked or the way a lineup is presented can affect what the witness reports (Loftus, 2005; Wells & Olson, 2003). If the question is leading, confusing, or suggestive, the witness may give an answer that reflects the question more than the memory.

This does not mean eyewitnesses are useless; investigators must approach memory carefully. A witness can provide important leads, describe key actions, or supply useful evidence. They may accurately recall a robbery, a getaway car, or a bright jacket. Research suggests memories of broad actions and distinctive features (i.e., what happened, a car's color, or a weapon's presence) are more likely to survive stress and time, while fine details like faces, words, or precise sequences are more vulnerable to distortion or forgetting. This distinction helps officers know which parts of memory are generally more reliable and which require special caution. But the value of eyewitness evidence depends on how it was observed, preserved, and tested. Good investigators do not assume memory is perfect or worthless. They understand its strengths and its limits.

Slow Down and Think: *A witness saw a robbery for about ten seconds at night while standing across the street. What parts of that event might be remembered more accurately than the offender's face? What would you want to know before relying heavily on the identification?*

For decades, researchers have found that people usually remember the general meaning of an event better than the exact details. This is important in criminal cases. A witness might remember that a robbery happened, that the offender wore dark clothes, or that a weapon was present. The same witness could still get the face, exact words, or order of events wrong (Loftus, 1979; Loftus, 2005). So a witness can be partly right and partly wrong at the same time. That is why investigators should break memory into parts and ask which parts are most likely to be accurate.

Watch Your Step

General Public: “If a witness seems sincere, the memory must be accurate.”

Expert: Sincerity and accuracy are not the same thing. A witness can be honest, confident, and completely mistaken because memory can change without the person realizing it.

Pro Tip

Treat memory as evidence that must be preserved carefully, not as proof that speaks for itself. Early documentation matters because later retellings can reshape what a witness reports. Guidance from the National Institute of Justice and the National Academies both support recording the witness’s first account as completely and neutrally as possible. A clean early record helps protect the integrity of the case.

5.2 Estimator Variables: Factors Investigators Cannot Control

Researchers often divide eyewitness influences into two broad categories: estimator variables and system

variables. Estimator variables are factors that affect accuracy but are beyond the justice system's control at the time of the event. To help officers quickly assess these factors on scene, each can be reframed as a rapid checklist: Was the lighting adequate? How far was the witness from the event? How long did the witness have to observe? Was the witness under stress at the time? Was a weapon present? Was the perpetrator's face obscured by a disguise? Was the witness or suspect intoxicated? Was there a cross-race identification involved? These on-scene questions make it easier for investigators to audit conditions in real time and note which factors may affect the reliability of a later identification (Wells, 1978; Wells et al., 1998; Wixted & Wells, 2017).

These factors are important because they affect what the witness could see or hear at the time. If the original view was poor, later confidence cannot fix that. A witness may feel sure now, but their memory may have been weak to begin with. That is why investigators should ask not only, "How sure is the witness?" but also, "What could the witness actually see or hear?" Investigators can use these questions as a checklist to evaluate what the witness had a chance to observe. This makes it easier to spot potential weaknesses or areas that require caution when evaluating identification evidence.

Stress is one of the most studied issues. High stress can narrow attention and degrade face memory, especially when the event is sudden and threatening (Deffenbacher et al., 2004). This makes sense from a survival perspective. In a frightening situation, the brain may focus first on danger, escape, or self-protection. That can help a person survive, but it can also reduce the amount of detail taken in about the offender's face or actions.

Weapon focus is a related issue. When a weapon is present, witnesses often pay more attention to the weapon than to the offender's face, which can reduce identification accuracy (Fawcett et al., 2013). Simply put, if a gun or knife is seen, the witness's attention usually goes to what seems most dangerous. This is a normal reaction, but it can make it harder to remember the face.

Viewing conditions also matter. Short exposure times, poor lighting, distance, movement, masks, hats, and partial obstruction can all weaken encoding. Delay matters too. Memory generally becomes less reliable over time, especially when the witness has little chance to rehearse accurate details and many chances to absorb new information (Deffenbacher et al., 2008; Wixted & Wells, 2017). The longer the delay, the more opportunities there are for forgetting, guessing, or contamination.

Another important factor is the cross-race effect, also called own-race bias. Research shows that people are

Slow Down and Think: A

victim was threatened with a handgun during a fast-moving carjacking and later says they can identify the driver. How might stress and weapon focus affect the quality of that memory? What follow-up questions would help you evaluate the viewing conditions?

usually better at recognizing faces of their own racial group and less accurate at identifying faces from other groups (Meissner & Brigham, 2001). This does not mean cross-race identifications are always wrong, but they should be handled with extra care and not treated as automatically reliable.

Estimator variables do not automatically make an identification useless. Instead, they help investigators decide how much weight to give the witness's memory and what safeguards are needed. A careful investigator asks how the event was perceived before asking how certain the witness seems today. A witness who had only a brief, stressful encounter with a stranger at night may still be helpful, but the encounter's conditions must be taken seriously.

Table 5.1 Practical Questions for Assessing the Quality of an Eyewitness Observation

Assessment Question	Why This Question Matters	If Conditions Were Strong	If Conditions Were Weak
Where was the witness located in relation to the event? What distance was there between the witness and the key people or objects?	Distance affects how clearly a witness could see important details such as faces, body movements, clothing, or objects. The farther away the witness was, the harder it may have been to form a strong memory.	A closer and clearer location may support stronger observation and may make the witness's account more useful.	A far distance may weaken the value of the identification and increase the risk that the witness guessed or filled in missing details later.
What was the lighting like at the time? Was it daytime or dark, and were there any shadows or artificial lights?	Lighting affects what the witness could actually see. Poor lighting can make colors, faces, and movement harder to judge accurately.	Good lighting may support stronger memory for faces, actions, and identifying features.	Weak lighting, glare, or heavy shadows may reduce accuracy and make later confidence seem stronger than the original viewing conditions justify.
How long did the witness have to observe the event? Was it just a few seconds or several minutes?	Observation time matters because brief exposure may only allow a witness to notice general features, while longer viewing may allow more detail to be encoded.	A longer and steady observation may improve the witness's chance to notice and remember important details.	A very short observation may lead to weak memory, especially if the event was fast, stressful, or confusing.
Was anything blocking the witness's view, such as glass, a crowd, or barriers?	An obstructed view may limit what was actually seen, even if the witness believes the view was good. Partial viewing can lead to mistaken assumptions.	A clear line of sight may support a more accurate account of the people, actions, and objects involved.	An obstructed view may reduce reliability and make the witness more likely to misidentify details or confuse one person with another.
Was the witness distracted, frightened, injured, or under stress during the observation?	Stress, fear, injury, and distraction can narrow attention and reduce the ability to notice or remember details accurately.	If the witness was calm and focused, the memory may be stronger and less affected by divided attention.	If the witness was highly stressed or distracted, the account may be less complete or less accurate, even if the witness sounds sure later.
What was the witness's focus of attention—on people's faces, a weapon, or something else?	People usually remember best what they were actually paying attention to. If the witness focused on a weapon or escape route, face memory may be weaker.	If the witness focused on the person's face or actions, identification may be more helpful.	If attention was drawn to a weapon or another object, the witness may remember that feature better than the offender's face.
Did the situation involve a disguise, mask, unusual clothing, or changes in appearance?	Disguises and changes in appearance can interfere with recognition and make later identification harder or less accurate.	If there was no disguise and appearance was clear, the witness may have had a better chance to observe identifying features.	If the face was covered or appearance was altered, the witness may have relied on weak or incomplete information.

Assessment Question	Why This Question Matters	If Conditions Were Strong	If Conditions Were Weak
Was the sighting affected by weather conditions, such as rain, fog, or glare?	Weather can reduce visibility, distort perception, and make it harder to judge distance, color, speed, or facial detail.	Clear weather may support a more reliable observation and make other details easier to judge.	Rain, fog, glare, or other poor conditions may weaken the memory and lower the value of later identification.
Was the witness intoxicated, tired, or otherwise impaired?	Impairment can affect attention, perception, and later recall. A witness may be sincere but still have difficulty remembering accurately.	If the witness was alert and unimpaired, the observation may carry more weight.	If the witness was intoxicated, exhausted, or impaired, the memory may be weaker and should be treated with greater caution.
Did the witness and the person identified belong to different racial or age groups?	Research shows that people are sometimes less accurate when identifying people from groups they know less well, including across racial lines and sometimes across age differences.	If the witness had a strong basis for recognition, this factor may be less concerning but still worth noting.	If the identification involved cross-race or other recognition challenges, investigators should be especially careful and avoid treating the identification casually.

Watch Your Step

General Public: “If a witness got a good look, that usually settles it.”

Expert: “A good look” is often a conclusion, not a fact. Investigators need to ask about distance, lighting, stress, duration, distractions, and whether the witness’s attention was divided.

Pro Tip

Before you ever present a lineup, document the witness’s original viewing conditions in detail. Ask about lighting, distance, duration, stress, obstructions, and whether a weapon was present. The

National Institute of Justice and the American Psychology-Law Society both support careful assessment of estimator variables before an identification is given strong weight. Strong case work begins with context.

5.3 System Variables: Factors Investigators Can Control

System variables are the factors the justice system can control after the event. These include the instructions given to the witness, how the lineup is assembled, whether the administrator knows who the suspect is, the order of photos, whether the process is documented, and whether the witness receives feedback (Wells et al., 1998; Wells et al., 2020). Unlike lighting or stress at the scene, these steps are fully under the investigators' control. This gives practitioners real power to make identification evidence more reliable by making careful choices. Even small decisions can affect both accuracy and witness confidence.

This is a key part of eyewitness reform. Investigators cannot change the lighting, distance, or stress at the crime scene after the fact. But they can make sure the identification process is fair. They can decide whether the witness is pressured, whether the suspect stands out, whether the administrator gives clues, and whether the witness's confidence is accurately recorded.

One of the most important protections is telling the witness that the offender may or may not be present in the lineup. Without that instruction, some witnesses may assume they must choose someone, even if the real offender is absent. This can increase false identifications (Steblay, 1997; Wells et al., 1998). That one sentence lowers pressure and reminds the witness that “not there” is an acceptable answer. Psychologically, this instruction breaks the natural tendency for people to compare lineup members and select the one who most closely resembles their memory (a process called relative judgment), helping witnesses focus on whether their memory matches anyone at all. This simple prompt has been shown to reduce mistaken choices by encouraging absolute, rather than relative, judgment.

Another important step is building a fair lineup. The fillers should match the witness's description well enough that the suspect does not stand out. If one person clearly matches the description, the lineup may push the witness toward that person, even if their memory is unclear. In that case, the procedure is not really testing memory, but rather who stands out the most.

Administrator influence also matters. If the person conducting the lineup knows who the suspect is, that

person may unintentionally signal expectations through tone, pause length, facial expression, or follow-up language. Even small signals can matter. A witness may pick them up without realizing it. Double-blind administration reduces that risk because the administrator does not know which person the suspect is (Wells et al., 1998; Wells et al., 2020). This helps make the procedure a cleaner test of memory.

It is also important to record the witness's confidence statement right away, because confidence can increase after feedback or repeated exposure. If investigators wait, they might miss what the witness actually felt at the time. Officers should write down the witness's exact words, like "I'm about 70 percent sure," "I think that's the person," or "I'm almost certain." These direct quotes give a clear record of the witness's original confidence and help avoid confusion later.

Research on lineup format has examined sequential and simultaneous presentation. Findings are complex, and scholars continue to debate which procedure is best across all circumstances. What remains clear is that fairness, clear instructions, and careful documentation matter greatly, regardless of the format used (Steblay et al., 2011; Wixted & Wells, 2017).

Because police can control system variables, these are especially important. Investigators cannot control everything, but they can decide if the procedure protects memory or changes it. That is why reforms focus so much on lineup rules, instructions, and documentation.

Watch Your Step

General Public: "A lineup is fair as long as the suspect is in it."

Expert: A lineup is not fair just because it includes the suspect. It must also be structured so the suspect does not stand out and the witness does not feel pushed to choose.

Pro Tip

Use neutral instructions every time, even when the case feels strong. Tell the witness that the person may or may not be present and that the investigation will continue whether or not an identification is made. The National Institute of Justice and the American Psychology-Law Society both support this approach because it lowers pressure to choose. Neutral procedure protects both innocent suspects and truthful witnesses.

5.4 Confidence, Accuracy, and the Problem of Feedback

Witness confidence is powerful in court. Jurors often find confident eyewitnesses persuasive, and investigators may feel more comfortable with an identification when the witness sounds certain. Confidence can make a statement feel strong, clean, and convincing. A witness who says, “I am absolutely sure,” often sounds more believable than a witness who says, “I think so.” For this reason, some courts have adopted model jury instructions to warn jurors that a confident identification is not always an accurate one; for example, the New Jersey Supreme Court in *State v. Henderson* and the Oregon Supreme Court in *State v. Lawson/James* both require judges to explain the factors that can impact eyewitness reliability and confidence. By preparing jurors for these confidence-accuracy pitfalls, the legal system can help ensure that courtroom decisions are grounded in scientific understanding rather than surface certainty.

But confidence and accuracy do not always go hand in hand. Confidence can be shaped by many factors beyond memory, such as repeated questioning, seeing the suspect’s face again, talking with others, and feedback from police or prosecutors (Brewer & Wells, 2006; Wells & Bradfield, 1998). This means a confident witness is not always accurate, and a less confident witness is not always wrong.

This issue became clear in research on confirming feedback. In one key study, witnesses who were told they had picked the suspect later reported higher confidence, better views, and greater attention, even though the feedback came after the identification (Wells & Bradfield, 1998). This shows that feedback can change how witnesses remember both the suspect and their earlier confidence, as well as the viewing conditions.

This matters because later decision-makers may think they are hearing a pure memory when they are actually hearing a memory affected by reinforcement. A witness may honestly believe, “I knew it right away,” even if that strong certainty grew after feedback, praise, or repeated confirmation.

Slow Down and Think: *After a witness identifies a photo, the detective says, “Good, you picked the same person we suspected all along.” How might that comment affect the witness’s later confidence? Why is that dangerous if the case goes to trial?*

At the same time, recent research shows that confidence can be helpful when measured immediately, before any outside influence, under fair conditions, and at the witness’s first identification (Wixted & Wells, 2017). This is different from saying that all confident witnesses are accurate. Timing and conditions matter. Early confidence in a fair process can be useful, but later confidence, after feedback, is much less reliable.

For investigators, the lesson is practical. The goal is not to ignore confidence, but to record it correctly. A spontaneous, immediate statement like “I think that is him” or “I am very sure” should be written down exactly as the witness says it, before any feedback is given. Later increases in confidence should not be mistaken for the original certainty.

This issue is also important for court preparation. When witnesses see the suspect many times in hearings, meetings, or photos, they can become more confident simply because the face becomes familiar. Over time, this familiarity can feel like a stronger memory of the crime. Investigators and attorneys should be careful not to confuse repeated exposure with true memory strength. In court, attorneys can address memory issues through focused cross-examination, highlighting factors such as stress, suggestion, and repeated exposure that may have affected the witness’s memory. Expert testimony can also help jurors understand the science behind eyewitness memory and the risks of mistakes. These strategies help juries consider not just how certain a witness sounds, but also the scientific background of their testimony.

Watch Your Step

General Public: “If the witness sounds more confident later, that means the memory got stronger.”

Expert: Later confidence often reflects reinforcement, repetition, or social influence rather than improved memory. Confidence can grow while accuracy stays the same or even declines.

Pro Tip

Document the witness's confidence in the witness's own words immediately after the identification and before any discussion continues. Then stop talking about whether the witness "got it right." Recommendations from the American Psychology-Law Society and NIJ both stress that confidence must be captured early and cleanly. Once feedback enters the process, the original measure is gone.

5.5 False Memory and the Misinformation Effect

False memory refers to remembering something that did not happen or remembering it differently than it actually occurred. One of the most influential findings in this area is the misinformation effect. After seeing an event, people may later be exposed to misleading information through questions, conversations, media, or other witnesses. In today's world, the risks of contamination are amplified by constant news coverage, social media replays, and even frequent viewing of body-cam or surveillance footage. Witnesses who discuss an event online, see viral video clips, or repeatedly watch footage may unwittingly absorb new details or interpretations that mix into their original memory. That later information can become woven into memory, making the witness more likely to report incorrect details with confidence (Loftus, 2005).

This is an important point for students. Memory is fragile not just during the event, but also afterward. What happens later can change what the witness believes happened earlier. A witness may not know where a detail came from. It may feel real, even if it came from a question, a news story, or someone else's memory.

Classic research demonstrated that question wording alone can shape memory reports. When participants were asked how fast cars were going when they "smashed" into each other rather than when they "hit" each other, people later gave higher speed estimates and were more likely to remember broken glass that did not exist (Loftus & Palmer, 1974). That

Slow Down and Think: *Two witnesses sit together in a patrol car after a shooting and begin comparing what they saw before either gives a full statement. What risks does that create for memory contamination? How might it*

*affect later confidence in details
that were not actually observed
by both people?*

finding may seem small, but it reveals a major problem for investigations. Memory can be influenced by suggestion in ordinary, subtle ways.

Talking between witnesses is another risk. When witnesses talk to each other before their statements are recorded, they may accidentally share details, adopt each other's memories, or begin to believe they saw things that someone else described (Gabbert et al., 2003). This can make their stories seem more

alike than they really are. If two witnesses later tell the same story, it might be because of shared details, not because both saw the same thing.

Repeated interviews can also be risky if not done well. Leading questions, repeated suggestions, and pressure to give more details can distort memory. Investigators should not assume that more talking always leads to better memory. Sometimes it just leads to more changes and more mistakes (Loftus, 2005; National Research Council, 2014). Memory does not require bad faith. A witness does not need to be lying. Memory can shift during normal efforts to remember. That is why investigators should separate witnesses early, record original accounts promptly, and use careful questioning that avoids suggestion. To help officers remember these critical steps, this chapter offers a simple interview mantra: "Separate, Record, Compare." By keeping this slogan in mind, investigators can more easily recall the core practices that protect memory integrity in the field. The earlier the clean account is preserved, the easier it is to tell later what came from the witness and what may have been added afterward.

Watch Your Step

General Public: "If several witnesses tell the same story, the memory must be accurate."

Expert: Not always. Witnesses can influence each other through conversation, shared media exposure, or repeated police contact. Similar stories are more convincing when the accounts were preserved independently.

Pro Tip

Separate witnesses as early as possible and document independent accounts before they speak with one another about the event. This is a simple step, but it protects memory from contamination. The National Academies and NIJ guidance both support preserving original recall before outside information can creep in. Independent memories are far more useful than blended ones.

5.6 Lineups, Showups, and Other Identification Procedures

Not all identification procedures are equal. A lineup generally presents one suspect with several fillers, while a showup presents a single person to the witness. Showups are often used soon after a crime for practical reasons, but they are generally considered more suggestive because the witness sees only one possible choice (Stebly et al., 2003; Wells et al., 1998). When a showup is used, investigators should be especially careful with instructions, timing, and documentation.

A showup can seem helpful because it happens quickly and soon after the event. But it also creates a lot of pressure. If police show only one person, the witness may think the police believe they have the right person. That belief can influence the witness's choice, even if no one says it directly.

Photo lineups and live lineups both require fairness. A fair lineup begins with the witness's prior description, not with the suspect's appearance alone. Fillers should match the description so the suspect does not stand out. Investigators should avoid reusing the same suspect across multiple procedures with the same witness, as repeated exposure can create familiarity that is later mistaken for memory of the crime (Wells et al., 1998; Wells et al., 2020).

Good documentation is essential. Investigators should keep records of the lineup, the instructions given, the witness's exact response, the witness's confidence statement, the date and time, and who conducted the procedure. If the witness does not pick anyone or says no one is present, that should be

Slow Down and Think: A

suspect is the only person in the lineup wearing a red hoodie, even though the witness originally said the offender wore a red hoodie. What problem does that create? If the witness picks that person, what might the identification actually reflect?

recorded just as carefully as a positive identification. Nonidentifications are also evidence. They can show uncertainty, weak memory, or that the suspect was not recognized.

Some jurisdictions have adopted formal model policies for eyewitness identification. Even when local rules differ, the broader scientific principles are consistent: use fair composition, reduce suggestion, document carefully, and preserve the procedure for later review (Technical Working Group for Eyewitness Evidence, 1999; Wells et al., 2020).

For investigators, identification procedures are more than technical steps; they are tests of memory. If the test is unfair, it tells you more about the procedure than about the witness's memory. A good lineup checks true recognition. A bad lineup pushes the witness toward a certain answer.

Watch Your Step

General Public: “A quick street showup is always the best way to find out what happened.”

Expert: A fast procedure can sometimes help an investigation, but showups are also highly suggestive. Speed does not remove the need for caution, clear instructions, and full documentation.

Pro Tip

Think of a lineup as a scientific test of memory. A good test does not point the witness toward one answer. The Technical Working Group for Eyewitness Evidence and later reform recommendations

both support fair fillers, neutral instructions, and careful preservation of the entire procedure. If the test is biased, the result is weak no matter how certain the witness sounds.

5.7 Eyewitness Error, Wrongful Convictions, and the Need for Reform

Eyewitness error has played a major role in wrongful convictions. Reviews of DNA exoneration cases have repeatedly shown that mistaken eyewitness identification is one of the most common contributing factors in those cases (Garrett, 2011; Innocence Project, n.d.). These cases do not prove that all eyewitnesses are unreliable. They show what can happen when memory limits, poor procedures, and confidence inflation combine in a high-stakes investigation.

This is a clear reason why students should take eyewitness science seriously. Wrongful conviction cases show that honest people can make mistakes, that police procedures can make those mistakes worse, and that the justice system can treat those mistakes as strong evidence. When this happens, the cost is huge. An innocent person may be convicted, the real offender may go free, and victims and communities may think the case is solved when it is not.

Wrongful conviction cases also show that eyewitness mistakes often occur alongside other problems. These can include suggestive questions, tunnel vision, weak defense, bad forensic work, or false confessions. This means reforms need to go beyond just changing one lineup rule. The system must treat eyewitness memory as valuable but fragile evidence that needs protection at every step (Garrett, 2011; Wells et al., 2020).

Legal systems have responded in different ways. Some courts have revised jury instructions to warn about factors affecting eyewitness reliability. For example, New Jersey courts now provide jurors with detailed instructions highlighting factors that can affect memory accuracy, following the *State v. Henderson* (2011) case. The state of Oregon also adopted specific jury instructions after the *State v. Lawson/James* (2012) decision, requiring judges to explain the limitations of eyewitness identification to juries. Some police agencies have adopted model lineup procedures, such as double-blind administration and standardized instructions, as recommended by the U.S. Department of Justice and implemented in states like North Carolina and Wisconsin. Some states, including California, now require stronger documentation of identification procedures through video or audio recording. Scholars have also argued for better expert testimony so jurors

can understand memory science rather than relying only on common sense (Cutler & Penrod, 1995; National Research Council, 2014).

For investigators in Washington and across the country, the main lesson is practical. Eyewitness evidence can be helpful, but it must be collected and tested in ways that respect how memory works. The goal is not to challenge the witness, but to keep what the witness truly remembers and lower the risk that the system will change it.

Good reform is not against witnesses; it is for accuracy. It protects the witness, the suspect, the investigation, and the court by making the process more trustworthy.

Chapter Summary

Eyewitness memory can be important, but it is not a perfect record of the past. Memory is reconstructive and can be affected by viewing conditions, stress, delay, suggestion, feedback, and identification procedures. Estimator variables such as lighting, distance, weapon presence, and cross-race viewing conditions affect what the witness can perceive, while system variables such as lineup instructions, filler selection, administrator knowledge, and confidence documentation affect how memory is tested and reported (Wells et al., 1998; Wells & Olson, 2003; Wixted & Wells, 2017).

False memory and mistaken identification are real risks, especially when witnesses receive misleading information or participate in suggestive procedures. Research and wrongful conviction evidence both show the need for careful reforms, including fair lineups, neutral instructions, early confidence recording, witness separation, and strong documentation (Garrett, 2011; Loftus, 2005; Wells et al., 2020).

For investigators, the main lesson is clear: eyewitness evidence should be handled with respect, care, and scientific discipline. Good procedures do not create false certainty. They protect memory so the truth has a better chance to come out. Strong investigations do not assume witnesses are perfect or useless. They know eyewitnesses can be very helpful, but only if the system treats memory carefully and responsibly.

End of Chapter Activities

Case Study Analysis

Case:

Ronald Cotton and Jennifer Thompson

Ronald Cotton was wrongfully convicted after Jennifer Thompson, a rape survivor, identified him as the attacker. She was sincere and confident in her identification. Years later, DNA testing established that another man committed the crime. The case is widely discussed because it shows how a confident, well-intentioned witness can still make a mistaken identification and how the justice system can place too much weight on that error (Garrett, 2011; Thompson-Cannino et al., 2009).

Your task: Write a case analysis explaining how memory science helps us understand what happened in this case. In your response, discuss the possible role of stress, lineup procedures, confidence, and later reinforcement. Then explain what investigators should do differently in modern practice to reduce the risk of repeating these mistakes. End by describing how a fair investigator can respect a witness's experience while still testing the reliability of the identification in a careful, evidence-based way.

Choose Your Own (Detective) Adventure

Skills Lab 1: Viewing Conditions Audit

Review a short eyewitness scenario provided by your instructor. Create a chart listing the key estimator variables in the case, including lighting, distance, duration, stress, distractions, and any weapon presence. Then write a short paragraph explaining how those factors should affect the weight given to the witness's later identification.

Skills Lab 2: Build a Fair Lineup

Using a suspect description from a mock case, design a six-person photo lineup. Explain how you selected the fillers and how you made sure the suspect does not stand out. Include the instructions you would read to the witness before beginning the procedure.

Skills Lab 3: Confidence Capture Exercise

Write a sample script for documenting a witness's confidence statement immediately after an identification. Your script should show how to record the witness's exact words without giving feedback or suggesting that the choice was correct.

Skills Lab 4: Contamination Map

Take a fictional case in which witnesses talked to each other, saw media coverage, and were interviewed several times. Create a step-by-step map showing where memory contamination may have occurred and what investigators should have done to prevent it.

Skills Lab 5: Showup Decision Memo

Draft a short memo explaining when a showup might be used, what risks it creates, and what safeguards should be in place if officers decide to conduct one. Your memo must address timing, instructions, documentation, and why showups should not be treated casually.

Questions That Change How You Think

1. Why do jurors and investigators often find eyewitness testimony persuasive even when memory science shows clear risks?
 2. What is the difference between an honest witness and an accurate witness, and why does that difference matter?
 3. How should investigators balance the urgent need for leads with the need to protect a witness's memory from suggestion?
 4. Why are system variables especially important for police agencies and investigators?
 5. How can confidence become more persuasive over time even when accuracy does not improve?
 6. What makes a lineup fair, and how can a lineup become unfair without anyone intending misconduct?
 7. How should investigators respond when two sincere eyewitnesses disagree with each other?
 8. Why is it risky for witnesses to discuss an event with each other before giving full statements?
 9. Do you think juries should routinely hear expert testimony on eyewitness memory? Why or why not?
 10. If you were writing agency policy, what three eyewitness reforms would you require first, and why?
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This chapter was developed from publicly available research reports and guidance documents. It is intended as a teaching resource and does not constitute legal advice or official policy. Readers should consult local laws and agency policies for specific guidance.

CHAPTER 6: INTERVIEWING WITNESSES AND VICTIMS

Dr. Michael McHenry

Chapter 6: Interviewing Witnesses and Victims

Learning Objectives

By the end of this chapter, students should be able to:

- Explain the goals of witness and victim interviewing and distinguish information-gathering methods from more accusatory approaches.
- Describe how rapport, question style, trauma, memory, and communication needs can affect the quality of information obtained from witnesses and victims.
- Evaluate evidence-based practices for planning, conducting, and documenting witness and victim interviews in fair, respectful, and reliable ways.

Chapter Overview

A single poorly handled interview can change the outcome of a criminal case and have lasting effects. For instance, a case might collapse if an early interview causes a witness to confuse important details. A victim's story may be doubted if a rushed interview leaves gaps and contradictions. There have been real cases where wrongful convictions happened partly because witness statements were contaminated. In other cases, guilty people were not held responsible because key details were lost early on. Doing the interview well is not just a technical step; it can mean the difference between justice served and justice denied.

Witnesses and victims usually give the first detailed account of what happened in a criminal case. Before

investigators find video, phone records, DNA, or other physical evidence, they often start by talking to people. A witness might share what they saw, heard, or noticed. A victim might describe what happened, who was there, how things unfolded, and what happened next. Their information can help identify suspects, explain timelines, describe relationships, reveal motives, and guide investigators to other evidence. In many cases, the interview opens the door to the rest of the investigation. The interviewees' and victims' accounts are shaped by memory, stress, communication style, and the interview process itself. That means interviewing is not just a conversation. It is a professional skill that can strengthen a case or quietly damage it, depending on how it is done (Fisher & Geiselman, 1992; Memon et al., 2010; National Research Council, 2014).

Before exploring the skills of good interviewing, it is important to recognize that many common beliefs about witness memory are mistaken. For example, people often assume that confidence equals accuracy, that asking the same question repeatedly will help uncover the truth, or that leading questions do not impact a person's recall. Research shows that these assumptions can undermine the accuracy of information. Instead, evidence demonstrates that memory is reconstructive, that confidence does not always track with correctness, and that suggestion can shape what people believe they remember. A well-run interview can help a person remember more clearly and explain events in a way that can later be checked against other evidence. A poorly run interview can create confusion, add suggestions, increase stress, and make the statement less trustworthy. For example, imagine a burglary investigation where a witness describes seeing a person leave the scene at night. If the interviewer blames, rushes, or uses leading questions, the witness may become nervous or confused, recalling fewer details and possibly mixing up what was actually seen with later suggestions. But if the interviewer builds rapport, uses open-ended questions, and gives the witness time to reflect, the person may remember key observations, such as the suspect's clothing or the direction they ran. This scenario shows how interviewers' approach directly affects the quality and accuracy of critical information.

For investigators, this topic matters because strong cases depend on reliable information, and reliable information depends on good interviewing. A witness or victim may be honest, cooperative, and trying hard to help, but the information still has to be gathered carefully. The interview is not just about getting the person to talk. It is about helping the person remember, explain, and clarify what they know without pressure, guessing, or distortion. When interviews are done well, they can guide the entire case in a stronger direction. When they are done badly, the damage may spread through the rest of the investigation. Practice pointer: After each witness response, pause for at least 3 seconds before asking your next question, giving the interviewee time to think and add more detail.

6.1 The Purpose of Witness and Victim Interviews

The main goal of interviewing witnesses and victims is to gather accurate, detailed, and useful information

about an event. That sounds simple, but it requires more than just asking, “What happened?” A strong interview helps the person recall events in their own words and clarifies important points. It tests details carefully and preserves information for later review by investigators, attorneys, and courts (Fisher & Geiselman, 1992; Milne & Bull, 1999; Technical Working Group for Eyewitness Evidence, 1999).

This matters because people do not always tell a clear story on the first try. They may begin in the middle or jump backward and forward in time. They may leave out details they consider unimportant. They can feel embarrassed, scared, or uncertain. A good interviewer does not treat this as a failure. Instead, the interviewer helps organize memories, explain events clearly, and make the information useful.

Witness and victim interviews differ from suspect interrogations in key ways. The investigator should not assume the person is hiding guilt. The goal is to support memory, reduce pressure, and encourage full and accurate accounts. Information-gathering approaches are especially important here. Accusatory methods can shut people down, distort recall, or foster compliance rather than clarity (Clarke & Milne, 2001; Meissner et al., 2014; United Nations, 2021). Research shows that building rapport can have a big impact: some studies find that rapport-based interviews yield up to 30 percent more correct details than traditional methods (Brackmann & Otgaar, 2021). If a witness feels attacked, judged, or rushed, that person may say less, become more confused, or simply agree with the interviewer to get through the situation.

Victims and witnesses may also have different needs in the same investigation. A witness may have seen only part of an event and may feel uncertain about what was observed. A victim may carry pain, fear, anger, shame, or stress from trauma while also trying to remember details. Good investigators do not assume all interviews should be the same. They adjust the pace, language, and structure to suit the person and the situation while still preserving the quality of the information (Campbell et al., 2019; Fisher & Geiselman, 1992). Interviewing is also part of the larger truth-finding process. A witness account should guide evidence collection, not replace it. Investigators should use interviews to generate leads, test theories, and compare accounts with independent evidence. They should not treat a single statement as the final answer (Fisher et al., 2014; National Research Council, 2014). An interview helps open the map. It does not automatically close the case.

A strong interview has two main goals: respecting the person being interviewed and protecting the case by collecting information carefully. These goals support each other—when people feel respected and understood, they often give better information. In turn, when the process is calm, clear, and professional, the final statement is more likely to hold up later.

Watch Your Step

General Public: “A good interview means getting the person to talk as much as possible.”

Expert: Length alone is not the goal. A good interview produces clear, detailed, and reliable information without suggestion, pressure, or contamination.

Pro Tip

Start every witness or victim interview with a clear purpose. Decide whether you are trying to obtain a first narrative, clarify a timeline, test a detail, or preserve a formal statement. The College of Policing and the United Nations both support careful planning because the interview structure should match the investigative goal. A vague plan often leads to vague answers.

6.2 Rapport, Respect, and the Conditions That Help People Talk

Rapport is one of the most important foundations of effective interviewing. Rapport does not mean becoming a friend or promising outcomes that the investigator cannot control. It means creating a professional relationship where the person feels heard, treated with dignity, and able to speak without unnecessary pressure. Research shows that rapport-based interviews improve cooperation and increase the amount of useful information (Abbe & Brandon, 2013; Vallano & Compo, 2015). Rapport-building cues support trust and have measurable effects on the brain and body. Calming, supportive language can help reduce stress hormones such as cortisol and decrease amygdala activation, which are linked to fear and anxiety. Lowering these barriers helps the person access memory more clearly and take part in the conversation. Rapport is not just a soft skill—it’s grounded in principles of stress physiology (Bremner, 2006, pp. 445-461).

This matters because people do not remember well when they feel pressured. They remember more when they feel safe to think, speak, pause, and correct themselves. A witness or victim may arrive feeling nervous, ashamed, distracted, tired, skeptical, or afraid. Some may worry they will not be believed. Others may fear getting involved or worry that talking will make things worse. If investigators ignore these feelings, they may get shorter or less organized accounts. This is not because the person is unwilling, but because the interview conditions were not right (Campbell et al., 2019; Fisher & Geiselman, 1992). This also matters because it lets people be careful. In a rushed or cold interview, people may feel pressured to answer quickly, even when unsure. In a respectful interview, they are more likely to say, “I do not know,” “I am not sure,” or “I need to think about that.” These answers are not weaknesses. There are signs the person wants to be accurate.

Slow Down and Think: A

victim pauses often, cries, apologizes for forgetting details, and says, “I know this sounds mixed up.” Would those signs automatically make the person less credible? How should an investigator respond in a way that supports both dignity and accuracy?

To help build rapport, investigators can use simple, supportive phrases at the start and throughout the conversation. For example, you might say, “Take your time—there’s no rush,” or “If you need a break or do not understand a question, just let me know.” You might begin with, “I am here to listen and understand what you remember,” or reassure the person by saying, “It’s okay if you don’t remember everything exactly.” These brief statements help set a calm, respectful tone, making it easier for the witness or victim to share information honestly and accurately.

Respectful communication also includes choices about tone, language, and setting. Investigators should explain who they are, why the interview is happening, what the process will look like, and what the person should do if they do not understand a question or cannot remember something clearly. This kind of orientation reduces confusion and gives people permission to say, “I do not know” or “I do not remember,” which is important for accuracy (Fisher & Geiselman, 1992; Geiselman et al., 1985).

Table 6.1 A Four-Step Orientation Script for Witness and Victim Interviews (I3P Model)

Step	Sample Statement	How This Helps the Person Being Interviewed	Why It Helps the Investigation
1. Introduce	“My name is [Investigator Name], and I am here to speak with you today.”	This helps the person know who is speaking with them and reduces some of the uncertainty that can make people feel nervous or guarded. A clear introduction can make the interview feel more respectful and less confusing.	It creates a professional starting point, helps build rapport, and shows that the interview is being handled in a clear and organized way.
2. Purpose	“The purpose of this interview is to understand in your own words what you remember about what happened.”	This helps the person understand why the interview is happening and reminds them that their own memory and wording matter. It can reduce pressure to guess or give the “right” answer because the focus is on what they actually remember.	It encourages free recall, supports more accurate reporting, and helps the interviewer gather information in the person’s own words rather than through suggestion.
3. Process	“I will ask some questions and you can take your time to answer. If you need a break or do not understand something, let me know.”	This gives the person a clearer sense of what will happen next and lowers the pressure to respond too quickly. It also tells the person that pauses, breaks, and requests for clarification are acceptable, which can improve comfort and reduce confusion.	It helps slow the interview down, reduces misunderstanding, and makes it more likely that answers will be thoughtful and accurate rather than rushed or guessed.
4. Permission	“It is completely okay if you do not remember everything, or if you are not sure. Just let me know if you need to pause or clarify anything.”	This gives the person permission to be honest about memory limits instead of feeling forced to fill in gaps. It can reduce anxiety, protect the person from guessing, and make them more willing to say when they are uncertain.	It protects the quality of the interview by reducing pressure-based answers and helping preserve the difference between true memory, uncertainty, and later clarification.

Setting matters too. A noisy hallway, a crowded waiting room, or an interview space that feels unsafe can make it harder for people to focus. So can interruptions. Even small choices, such as whether the interviewer sits at eye level, whether the phone is silenced, and whether the person is given time to settle in, can affect how much and how well the person talks.

Using a repeatable script at the start of each interview shows respect and supports accurate recall. It helps both the investigator and the person being interviewed begin with clear expectations. Setting matters, too. A noisy hallway, crowded waiting room, or unsafe interview space can make it harder to focus. So can interruptions. Small choices (e.g., sitting at eye level, silencing phones, giving time to settle in) affect how much and how well the person talks. Investigators should know that rapport is not just a nice extra; it is part of the method. When someone feels respected, they are often more willing to keep thinking, keep talking, and correct mistakes. This helps both the person and the investigation.

Watch Your Step

General Public: “Rapport is just small talk and has nothing to do with evidence quality.”

Expert: Rapport affects how much detail people provide, whether they correct mistakes, and whether they stay engaged in the process. It is not a side issue. It is part of evidence collection.

Pro Tip

Use the opening minutes of the interview to lower confusion and build trust. Explain the process, invite the person to say when they do not know something, and make clear that guessing is not helpful. The Office for Victims of Crime, the United Nations, and cognitive interview research all support this early orientation because it improves the quality of later recall. Calm beginnings often produce better evidence.

6.3 How Question Style Shapes Memory and Detail

The way investigators ask questions strongly affects what people report. Open-ended prompts usually yield more detailed, accurate information than leading or closed questions because they allow the person to retrieve information in their own words. One practical tool for remembering how to use open prompts is the acronym TEDS: Tell, Explain, Describe, Show. For example, investigators can ask questions that encourage the interviewee to “Tell me what happened next,” “Explain what you saw,” “Describe the person you noticed,” or “Show me where you were during the event.” Using TEDS can help investigators quickly generate broad, non-leading questions even under pressure (United Nations, 2024). Questions such as “Tell me everything you remember from the beginning” or “What happened next?” are generally more useful than questions that suggest an answer or force a narrow choice too early (Fisher & Geiselman, 1992; Memon et al., 2010).

This matters because memory works better when people search their own minds instead of responding to someone else's guess. Contrary to popular belief, people do not typically recall every detail perfectly or in order. Instead, memory can be incomplete or jumbled, especially if someone is nervous or under pressure. Open-ended prompts give the witness or victim space to explain, describe, and remember without being pushed toward a certain answer. They also help investigators hear details they might not have thought to ask about yet. Clarify time, sequence, clothing, directions, or other specific details after the person has first provided a free narrative. Problems arise when investigators use specific, leading, or repeated questions too early or too often. Leading questions can introduce information the witness did not remember independently, and repeated questions can make people think their earlier answer was wrong or incomplete (Loftus, 2005; National Research Council, 2014). For example, there is a big difference between asking, "What did you notice about the person's hands?" and asking, "He had a knife in his hand, right?" The first question invites memory. The second question pushes the witness toward the interviewer's idea. That difference matters because once a suggestion enters the interview, it becomes harder to tell what came from the witness and what came from the question.

Slow Down and Think: *An investigator asks, "He was angry when he came in, right?" and the witness nods. What is weak about that exchange? How could the question be asked in a way that produces cleaner information?*

Research on the cognitive interview has been especially influential here. The cognitive interview uses techniques such as rapport building, uninterrupted narration, reinstatement of mental context, varied retrieval, and careful follow-up questions to improve recall. Reviews of the literature show that the cognitive interview often increases the amount of correct information reported, although it also requires training and careful use (Fisher & Geiselman, 1992; Memon et al., 2010).

Mental context reinstatement is especially useful. This means helping the person mentally return to the event's setting by recalling what they saw, heard, felt, or noticed at the time. This

can help recall details that might not come up during a quick question-and-answer exchange (Davies & Milne, 1985). Uninterrupted narration is also important because people often remember more when they are not constantly interrupted by narrow questions.

A good interviewer knows when to stay broad and when to narrow the focus. Start too narrow, and the interview may become stiff, incomplete, or suggestive. Stay too broad for too long, and important details may never get clarified. The skill is in guiding without leading (Fisher, 1994). For example, after beginning with an open-ended prompt such as, "Tell me everything you remember about what happened," the interviewer can listen to the person's narrative without interruption. Once the person has finished, the interviewer may use transitional questions like, "You mentioned seeing someone outside; can you tell me more about that?"

This follows the person's lead while inviting clarification. If further detail is needed, specific but non-leading questions can be used, such as "What did you notice about their clothing?" or "Can you help me understand what happened after that?" This gradual transition from broad to clarifying questions helps keep the interviewee comfortable and preserves the accuracy of their account, while still uncovering important details.

Watch Your Step

General Public: "Specific questions always get better answers."

Expert: Specific questions can help later, but they can also narrow memory too soon. People often recall more when they first tell the story freely and without interruption.

Pro Tip

Let the witness or victim give a full narrative before you start tightening the lens. Open prompts often reveal details you did not know to ask about at the start. The National Institute of Justice and cognitive interview research both support moving from broad recall to focused clarification instead of the other way around. Start wide, then narrow carefully.

6.4 Trauma-Informed Interviewing With Victims

Trauma-informed interviewing means understanding that trauma can affect attention, memory, emotion, behavior, and communication, and then adjusting practice in ways that reduce harm and improve information quality (Nguyen et al., 2025). For example, if trauma disrupts a person's ability to sequence events, the interviewer can allow the person to provide an unordered narration first, then return later to clarify the sequence. If a victim has trouble with attention or is easily distracted, the interviewer might use shorter,

more focused questions and allow for breaks as needed. When emotional distress is visible, the interviewer should acknowledge the person's feelings, offer reassurance, and avoid pressuring them to proceed quickly. If communication is affected, such as difficulty speaking or describing sensations, the interviewer can use gentle prompts and allow extra time for processing. These adaptations do not mean lowering standards or avoiding difficult questions. Instead, they mean asking questions in ways that recognize how trauma can shape recall and presentation (Campbell et al., 2019; Hopper et al., 2011).

This is important because many victims do not behave as people expect. Popular culture often teaches us to expect one “correct” victim response, like steady emotion, a clear sequence, and immediate detail. In reality, people are more varied. Trauma can affect how memory is stored and later recalled, as well as how a person appears outwardly (Paz & Goodman, 2008).

Slow Down and Think: *A sexual assault victim remembers the smell of the room and the suspect's jacket very clearly but cannot recall the exact order of several actions. Would that mix of strong and weak details be unusual after trauma? How should an investigator document it without turning confusion into contradiction?*

Victims of trauma may present in different ways. Some appear calm and emotionally flat. Some are highly distressed. Some remember sensory details clearly but struggle with sequence or timing. Some may return to certain details repeatedly while leaving gaps in other parts of the account. None of these patterns automatically proves or disproves credibility. They reflect the fact that traumatic events can affect encoding and retrieval in uneven ways (Campbell et al., 2019; Hopper et al., 2011).

This is an important point for investigators. A calm-looking victim is not automatically lying. A victim who looks very emotional is not automatically more accurate. A victim who cannot tell the story in perfect order is not automatically unreliable. Interviewers need to understand that trauma can alter how a story unfolds without altering the fact that something happened (Wu et al., 2023).

Trauma-informed practice also means reducing unnecessary secondary harm during the interview. Investigators should avoid blaming language, avoid pushing the person to guess, allow reasonable breaks, and explain why some questions need to be asked. In cases involving sexual assault, domestic violence, and interpersonal abuse, victims may also be balancing fear, loyalty conflicts, self-blame, financial dependence, cultural concerns, or safety planning while trying to answer questions (Campbell et al., 2019; Office for Victims of Crime, 2023). Interview interruptions can happen for many reasons, such as the person becoming overwhelmed, needing clarification, or outside distractions. Investigators should handle interruptions calmly, pause as needed, and give the person space to recover their composure. If a victim becomes too distressed to

continue, it is important to stop the interview, offer support, and, if appropriate, reschedule or refer them to appropriate services. Forcing a distressed person to continue can increase harm and undermine the reliability of the information. Knowing when to pause or end an interview is an ethical decision that protects both the person and the investigation. A trauma-informed interviewer still asks hard questions. But the interviewer asks them with care, patience, and explanation. The goal is not only to avoid harm. The goal is also to improve the quality of the information. People often recall better when they feel safer and less judged (Kieckhafer, 2014).

Watch Your Step

General Public: “If a victim cannot tell the story in perfect order, something must be wrong.”

Expert: Trauma can affect how people organize recall. A fragmented sequence does not automatically mean the event did not happen or that the person is being deceptive.

Pro Tip

When interviewing a victim of trauma, explain the process, ask permission before moving into painful topics when possible, and allow the person to say when a question needs to be repeated or slowed down. The Office for Victims of Crime and trauma-informed interview literature both support this approach because it reduces unnecessary distress and improves communication. Clear process supports clearer recall.

6.5 Witness Contamination, Co-Witness Influence, and Repeated Interviews

Witness and victim accounts can be contaminated after the event. People may talk to each other, see media

coverage, read social media comments, hear rumors, or be exposed to repeated suggestions from family members, friends, or investigators. When that happens, memory may shift. A person can come to believe a detail was personally observed when it actually came from another source (Gabbert et al., 2003; Loftus, 2005). This is one of the quiet dangers in witness interviewing. Contamination does not always look dramatic. It can happen in ordinary ways. A short conversation in a hallway, a message from a friend, a television report, or a well-meaning follow-up question can all influence what a person later believes they remember.

Slow Down and Think:

Before formal interviews begin, three bystanders stand together at the scene and compare what they saw. What risks does that create for later statements? How should an investigator handle this once it has already happened?

Co-witness influence is especially important. Studies show that when witnesses discuss an event together, they may adopt each other's errors or incorporate details they did not personally observe. This can make separate accounts look falsely consistent and can create misplaced confidence in details that originated elsewhere (Gabbert et al., 2003; Paterson & Kemp, 2006). That false consistency can be very misleading. Investigators may think, "Three people all said the same thing, so it must be true." But if those three people had first spoken to one another, their agreement might reflect shared contamination rather than independent memory.

Repeated interviews create another challenge. A second or third interview can be useful when conducted carefully, as people sometimes remember additional details over time. But repeated poorly structured interviews can also increase suggestion, rehearsal of mistakes, and pressure to be more certain than memory allows (Danby, 2022). Investigators should therefore document early accounts promptly and treat later interviews as opportunities for clarification, not for reshaping the original memory (Fisher & Geiselman, 1992; National Research Council, 2014). This means investigators should not assume that more interviews always lead to better evidence. Sometimes, later interviews help fill in missing pieces, but at other times, they slowly move the witness farther from the original memory. That is why early documentation is so important. It gives the case a clear starting point.

Watch Your Step

General Public: "If two witnesses tell the same story, that proves they both saw it clearly."

Expert: Similarity is more convincing when the accounts were preserved independently. Witnesses can influence one another without realizing it.

Pro Tip

Ask early and directly whether the person has spoken with other witnesses, seen news coverage, or reviewed messages about the event. This is not an accusation. It is part of memory assessment. The National Academies and eyewitness research both support identifying possible contamination sources before you treat a detail as independent recall. Source matters as much as content.

6.6 Communication Needs, Culture, and Fair Access to the Interview Process

Not all witnesses and victims communicate in the same way. Some people may have limited English proficiency. Some may be Deaf or hard of hearing. Some may have intellectual disabilities, autism, brain injury, dementia, or mental health conditions that affect pace, language, attention, or social presentation. Cultural background can also affect eye contact, emotional display, pauses, and how directly a person answers certain questions (Office for Victims of Crime, 2020). Investigators should not mistake communication differences for evasiveness (American Psychology-Law Society, 2020; Saywitz et al., 2019). This matters because investigators may wrongly read communication style as dishonesty or resistance. A person who pauses before answering may be mentally translating, carefully searching memory, or trying to understand the question. A person who avoids eye contact may be anxious, traumatized, culturally respectful, or neurodivergent. If investigators misunderstand these differences, they may damage the interview and the case.

Slow Down and Think:

A witness answers slowly through an interpreter and often asks that questions be repeated. Would slow pacing suggest deception? What should the investigator do to make sure the process remains fair and accurate?

Using qualified interpreters is often essential when language access is needed. Family members, friends, or children should not serve as informal interpreters in serious investigative interviews because they may filter meaning, omit information, add their own views, or affect the person's willingness to speak openly. A clean investigative record depends on accurate communication (United Nations, 2021; U.S. Department of Justice, 2015).

Investigators should also adjust the pace and phrasing of their questions when communicating. Short, concrete questions are usually better than abstract or compound questions. Investigators may need to check comprehension, allow more time for processing, or ask the person to explain their answer in their own words (Virginia Department of Behavioral Health

and Developmental Services, n.d.). Respectful adaptation improves both fairness and information quality (Saywitz et al., 2019). The key lesson is that fairness and accuracy go hand in hand. When people have real access to the interview process, their information becomes more useful. If they are misunderstood, rushed, or forced into a communication style that does not suit them, the interview becomes less reliable.

Watch Your Step

General Public: "If someone hesitates or answers differently than expected, they are probably hiding something."

Expert: Hesitation can reflect translation, stress, disability, cultural communication style, or effortful memory search. Investigators should understand the communication context before drawing conclusions.

Pro Tip

Build communication support into the interview plan rather than treating it as an inconvenience. Qualified interpreters, simpler phrasing, and extra processing time often improve evidence quality for everyone involved. The U.S. Department of Justice and the United Nations both support meaningful language access and clear communication in investigative settings. Fair access is good investigative practice.

If an investigator is bilingual, that skill can be a major strength, but bilingual ability alone is not the same as trained legal interpretation. Research shows that speaking in a non-native language can affect memory accuracy, suggestibility, confidence, and how credible a witness appears to others, which means language choice can shape both the content of the interview and how that interview is judged later (Raver et al., 2023). Research also shows that culture and language can affect how truthfulness is judged, which means investigators should be careful about assuming that communication patterns mean the same thing across all groups (Dando et al., 2024). In addition, reviews of interpreter use in forensic and trauma-related settings have raised concerns about inadequate scrutiny of interpreter competence and inadequate training, especially when cases are emotionally intense or legally complex (Guo & Takeda, 2023).

For these reasons, bilingual investigators should strongly consider pursuing formal interpreter training or certification if a local program is available.

In Washington, Whatcom Community College now offers a legal interpretation certificate developed in collaboration with the Washington State Court Interpreter Program, and the Washington courts explain that credentialed interpreters are tested for competency and accuracy, which makes this kind of training a valuable way to build both language skill and professional credibility in investigative work and testifying as an expert witness (Whatcom Community College, 2026; Washington State Administrative Office of the Courts, n.d.).

6.7 Documentation, Recording, and Evaluating the Statement After the Interview

A strong interview is only as useful as its documentation. Investigators should preserve as much of the original account as possible, preferably through audio or video recording when agency policy and case conditions allow. When recording is not possible, investigators should carefully document the person's statements, distinguish

direct recall from later clarification, and avoid rewriting the account in overly polished language that hides uncertainty or hedging (Technical Working Group for Eyewitness Evidence, 1999; United Nations, 2021).

This matters because memory evidence is fragile. If the first clean account is lost, later people may only see a summary shaped by the investigator's wording. A strong record helps others understand not only what the person said but also how the interview unfolded.

Documentation should include the time and place of the interview, who was present, the interview conditions, whether breaks were taken, any interpreters or support personnel involved, and any known factors that may affect memory or communication. Many agencies and organizations provide structured interview documentation templates or checklists to help investigators organize their notes and ensure important details are not missed. Using these templates can help students and practitioners consistently record key information such as the sequence of questions, the witness's exact words, and any clarifications provided (Ribeiro & van der Straten Ponthoz, 2017). If the person said, "I think," "I am not sure," or "I do not remember exactly," those limits should be preserved rather than cleaned up. Investigators should not turn uncertainty into certainty on paper (Fisher & Geiselman, 1992; National Research Council, 2014).

After the interview, the statement should be evaluated against other case evidence. Does the account fit physical evidence, digital records, timelines, surveillance, or other witness reports? Are there any areas that need clarification in a follow-up interview? Have any contamination risks appeared? The evaluation stage matters because a witness interview is not only about collecting words. It is about integrating those words responsibly into the rest of the investigation (Fisher et al., 2014; National Research Council, 2014).

Good documentation also protects everyone involved. It protects the witness or victim from later claims that the account changed without explanation. It protects the investigator from claims that words were suggested or distorted. And it protects the court by creating a record that can be reviewed more accurately later. In many ways, documentation is what turns the interview into usable evidence. A good conversation alone is not enough. The information must be preserved in a clear, honest, and reviewable way.

Interviewing witnesses and victims is one of the most important skills in criminal investigation. Good interviews are not based on pressure, guesswork, or common myths about how memory works. They are based on planning, rapport, open-ended questioning, careful clarification, and respect for the fact that memory is reconstructive and vulnerable to suggestion (Fisher & Geiselman, 1992; Memon et al., 2010; National Research Council, 2014). Witnesses and victims can provide powerful evidence, but its value depends heavily on how it is collected and preserved.

Trauma, stress, communication needs, contamination, and repeated interviewing can all affect the quality of an account. Investigators, therefore, need methods that protect both the person and the information. Information-gathering models, trauma-informed practice, early documentation, careful use of interpreters, and strong recording practices all help improve reliability and fairness (Campbell et al., 2019; United Nations, 2021; U.S. Department of Justice, 2015).

For criminal investigators, the main lesson is clear: a strong interview is respectful, structured, and evidence-based. It helps people remember more clearly, protects them from unnecessary harm, and gives the justice system a better chance of getting the facts right. A poor interview may still produce words, but it may not produce the truth.

End of Chapter Activities

Case Study Analysis

Case:

The Central Park Five case

The Central Park Five case is often discussed for false confession issues, but it also raises important questions about witness and victim interviewing, trauma, contamination, and the pressure that can surround major investigations. In the case, a brutal assault, intense public attention, and investigative urgency combined with interview practices that later drew widespread criticism. Years later, the convictions were vacated after the true offender confessed and DNA evidence supported that account (Burns, 2012; Garrett, 2011).

Your task: Write a case analysis explaining how better witness and victim interviewing principles might have improved the investigation. In your response, discuss how trauma, public pressure, memory limits, and contamination risk should influence investigative practice. Then explain what modern investigators should do differently when handling serious cases that involve high emotional intensity, multiple interviews, and urgent public demands for answers. End by identifying three interview safeguards that could have improved reliability without slowing the investigation unfairly.

Choose Your Own (Detective) Adventure

Skills Lab 1: Build the Interview Plan

Create a written plan for a first interview with a witness to an armed robbery. Your plan should include the interview goal, rapport steps, opening instructions, narrative prompts, follow-up questions, and contamination checks.

Skills Lab 2: Rewrite the Questions

Take ten poorly written interview questions, such as leading, compound, or confusing questions, and rewrite them into stronger open-ended or clarification questions. Then explain why each revision is more likely to produce accurate information.

Skills Lab 3: Trauma-Informed Response Map

Using a mock sexual assault or domestic violence scenario assigned by your instructor, create a step-by-step guide for how the investigator should begin the interview in a trauma-informed way. Include safety, pace, language, explanation of process, and documentation strategy.

Skills Lab 4: Contamination Audit

Review a short case scenario in which witnesses spoke to one another and watched media coverage before formal interviews. Identify every point where contamination may have occurred and describe how investigators should respond.

Skills Lab 5: Documentation Drill

Listen to or read a short mock interview and draft a clean investigative summary that preserves uncertainty, avoids polishing the witness's words into false certainty, and clearly separates direct recall from later clarification.

Questions That Change How You Think

1. Why is interviewing a professional skill rather than just a natural conversation?
 2. What makes rapport ethically important as well as practically useful in witness and victim interviews?
 3. How can an investigator ask hard questions without turning the interview into a pressured or accusatory exchange?
 4. Why is it dangerous to assume that trauma-related memory gaps prove dishonesty?
 5. How should investigators decide when a follow-up interview will help memory and when it may risk contamination?
 6. Why do open-ended questions usually produce better evidence than leading questions?
 7. What are the biggest risks when witnesses talk to one another before formal statements are collected?
 8. How can language access and disability accommodation improve both fairness and evidence quality?
 9. Should all witness and victim interviews be recorded when possible? Why or why not?
 10. If you were writing agency policy, what three rules would you require for witness and victim interviewing first, and why?
-

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This chapter was developed from publicly available research reports and guidance documents. It is intended as a teaching resource and does not constitute legal advice or official policy. Readers should consult local laws and agency policies for specific guidance.

CHAPTER 7: CHILD FORENSIC INTERVIEWING

Dr. Michael McHenry

Chapter 7: Child Forensic Interviewing

Learning Objectives

By the end of this chapter, students should be able to:

- Explain the purpose of child forensic interviewing and why child interviews require developmentally informed, evidence-based methods.
- Describe how memory, suggestibility, trauma, language development, and interviewer behavior can affect the quality of a child's account.
- Evaluate best practices for planning, conducting, and documenting child forensic interviews in a way that promotes accuracy, fairness, and child well-being.

Chapter Overview

Child forensic interviewing is one of the most sensitive tasks in criminal investigation. When adults interview children about abuse, neglect, violence, exploitation, or frightening events, they are not simply collecting facts. They are also shaping the conditions under which those facts will either become clearer or more confusing. In some cases, the child may be the only direct witness. In other cases, the child's words may be the first step that leads investigators to medical findings, digital evidence, scene evidence, or admissions by offenders. That is why the interview matters so much. A well-conducted interview can help a child describe what happened in a way that is clear, careful, and legally useful. A poorly conducted interview can blur memory, introduce suggestion,

or make it harder later to tell what came from the child and what came from the adult's questions (Ceci & Bruck, 1995; Lamb et al., 2018; Saywitz et al., 2019).

This chapter explains why child forensic interviewing is different from adult interviewing, how children's memory and communication develop, and why careful question style matters so much. You will learn about rapport building, narrative practice, open-ended prompts, suggestibility risks, trauma-informed interviewing, and the importance of structured protocols. You will also see why modern child forensic interviewing emphasizes planning, neutrality, developmentally appropriate communication, and full documentation rather than repeated questioning or pressure (Faller, 2015; Lamb et al., 2018; Lyon, 2014). For criminal investigators, this topic matters because a child interview is not just a conversation with a smaller witness. It is a specialized evidence-gathering process that requires training, patience, and discipline.

Always believe the victim and support them throughout the process.

It also helps to remember what is at stake. A child may come into the room scared, ashamed, confused, loyal to the offender, worried about family consequences, or unsure whether it is safe to talk. Some children disclose in a direct way. Some disclose slowly. Some tell only part of what happened. Some deny at first and disclose later. A strong interviewer understands that the goal is not to force a quick answer. The goal is to create a setting where the child can provide the most accurate and complete account possible. Building this safe environment often starts with practical rapport-building techniques, such as beginning with neutral topics like favorite activities or recent events, allowing silence without rushing the child to speak, and demonstrating patience and respect for the child's pace. Using simple questions, acknowledging that it is okay not to remember or know something, and being attentive to the child's cues also help foster trust. That is one reason structured models matter so much. They help interviewers slow down, listen better, and avoid choices that can damage both the child and the case (APSAC, 2012; United Nations, 2021).

7.1 What Child Forensic Interviewing Is, and Why It Matters

Imagine a 7-year-old named Sam who tells his teacher at recess, "Something happened at home, but I can't talk about it." The teacher contacts child protective services. Soon, Sam is brought to a special interview room. A trained interviewer greets him, sits at his level, and begins a gentle, careful conversation. By asking open-ended questions and listening patiently, the interviewer helps Sam share events that need to be documented and investigated. Every choice the interviewer makes (i.e., what to ask, how to ask, when to pause) affects Sam's comfort. These choices also influence the direction of the investigation and the outcome of justice.

A child forensic interview is a developmentally appropriate, legally sound, neutral, and research-informed interview conducted by a trained professional to gather factual information from a child about suspected abuse, exposure to violence, or other harmful events in a way that fits the child's developmental level, reduces suggestion, and supports a broader multidisciplinary investigation (Newlin et al., 2015). It is designed to match the child's age and be legally relevant. The main goal is to obtain accurate and complete information while avoiding suggestions, minimizing harm, and preserving the child's account (Faller, 2015; Lamb et al., 2018). This type of interview is different from a therapy session, a medical exam, or a general welfare check. Each has its own purpose. Therapy focuses on healing, while a medical exam is for diagnosis and care. In a forensic interview, the goal is to gather facts in a manner that can withstand later legal and professional review. This does not mean the interviewer should sound cold or mechanical. Instead, the interviewer must stay neutral, listen carefully, and avoid shaping the child's answers. The interviewer is not there to prove a case, but to learn what the child can say, how the child says it, and what details can be explored without adding suggestion.

In a forensic interview, the interviewer tries to learn what the child remembers, how the child communicates, and what details the child can describe in their own words. The interviewer must stay neutral and not assume guilt, innocence, or the truth of outside reports. The goal is to help the child feel comfortable enough to give a clear and independent account (APSAC, 2012; Faller, 2015). This approach is different from older methods that relied on pressure. Pressure might get a child to talk, but it does not always lead to reliable evidence. Consider two different ways a child abuse investigation might begin. In the first, a skilled forensic interviewer creates a supportive environment, follows best practices, and documents the process carefully. The child's words are preserved in detail. The investigation moves forward with clear direction and less need for repeated questioning. In the second, poor questioning and inadequate documentation lead to confusion. This requires the child to retell their story again and again, increasing stress and creating doubt about what they actually said.

Slow Down and Think: A

patrol officer asks a child several direct questions at the scene before a trained forensic interviewer is involved. What risks could that create for the later interview? How might early questioning affect the child's memory or willingness to talk?

These interviews matter because children may not disclose abuse right away, and when they do disclose, the first formal interview can shape what happens next in the investigation. If the first forensic interview is careful, well-documented, and developmentally appropriate, it may reduce the need for repeated questioning. If it is poorly done, the case may become harder to interpret, and the child may be asked to repeat painful information multiple times (Lamb et al., 2018; Saywitz et al., 2019). Because these interviews can influence criminal, child protection, family court, and treatment decisions, they carry both legal and human consequences. A strong

interview protects the child, supports the investigation, and creates a clearer record for later review. A weak interview can create confusion about what the child actually said and what may have been shaped by the interviewer (Ceci & Bruck, 1995; Lyon, 2014).

A child forensic interview is just one part of a larger, multidisciplinary investigation. It should guide the next steps, not replace them.

A strong interview can lead investigators to people, places, digital and physical evidence, and other details that can be independently verified. Zero Abuse Project's (2023) evidence collection guide also warns investigators not to rely on just one kind of evidence and encourages them to look for supporting evidence in child abuse cases. In practice, the child's account should lead to more investigation, not end it. For

example, a child's statement might prompt investigators to request a medical exam or save important text messages for review.

A Brief History of Child Forensic Interviewing

Child forensic interviewing did not appear overnight. It grew out of a major problem in the child protection system. As public awareness of child sexual abuse increased in the 1970s and 1980s, more children began disclosing abuse, but professionals quickly realized that many adults were not prepared to question children in safe, careful, and developmentally appropriate ways. Early interviews were often inconsistent. Some were too informal. Some were too leading. Some were repeated by many different adults, which increased confusion, stress, and the risk of suggestion. Over time, the field moved toward more structured methods because professionals recognized that children could provide important information, but only if adults used approaches that fit children's language, memory, and emotional needs (Faller, 2015; Newlin et al., 2015).

The growth of child forensic interviewing also happened because the problem was too large to ignore. Community education materials from the Children's Safety Center of Washington County (2026) note that **1 in 10 children will be sexually abused before their 18th birthday** and that **youth are 2.5 times more likely to be raped than adults**. Numbers like these help explain why the field had to become more specialized. When abuse is this widespread, the justice system cannot rely on guesswork or on adult assumptions about how children "should" talk. It needs trained interviewers who understand that children may disclose in fragments, may struggle with time and sequence, and may need carefully structured support to explain what happened.

A major turning point in this history was the rise of the Children's Advocacy Center, or CAC, movement. CACs developed because the older system was often fragmented and duplicative. A child might be questioned separately by police, child protection, medical professionals, attorneys, and others, sometimes in settings that

were not child-friendly and sometimes in ways that made the child repeat painful details again and again. Newlin and colleagues (2015) explain that the CAC movement was built on the idea that this traditional response could increase system-induced trauma and weaken investigations rather than strengthen them. In response, CACs created a more coordinated model in which law enforcement, child protection, medical providers, prosecutors, victim advocates, and forensic interviewers could work together in a child-focused setting. The goal was not simply comfort. The goal was better evidence, fewer unnecessary interviews, and a process that was both more accurate and less harmful to children (Newlin et al., 2015).

Faller (2015) shows that this shift was part of a larger historical movement in the field. Over four decades, child interviewing has moved away from unplanned adult-led questioning toward research-based methods that emphasize neutrality, open-ended prompts, rapport-building, and careful documentation. This history matters because it explains why modern child forensic interviewing is treated as a specialized discipline. It is not just a conversation with a child. It is a carefully designed process that grew out of hard lessons about what happens when children are interviewed poorly. Today's best-practice models exist because earlier systems showed the cost of inconsistency, suggestion, and repeated questioning. In that sense, the history of child forensic interviewing is really the history of the justice system learning that children need a different kind of interview, and that truth is better protected when the process is structured, coordinated, and child-centered (Faller, 2015; Newlin et al., 2015).

Watch Your Step

General Public: “A child interview is just a simpler version of an adult interview.”

Expert: Child interviews require specialized methods because children differ from adults in language, memory, social expectations, and vulnerability to suggestion. Simpler is not the same thing as easier.

Pro Tip

When a child may be a key witness, think early about who should do the formal interview and when it should occur. Not every professional contact should become a full questioning session. Guidance from APSAC and major forensic interviewing research supports limiting unnecessary interviews and using trained interviewers whenever possible. Fewer, better interviews usually produce better evidence.

7.2 Child Development, Memory, and Communication

Children remember important events, including abuse, but their recall differs from that of adults. Development affects vocabulary, sense of time, sequencing, attention, and how repeated events are described. Younger children may remember what happened but cannot always place events on a calendar or use adult concepts accurately (Ceci & Bruck, 1995; Lamb et al., 2018). Adults expect children to recount events as adult witnesses do, but children recall experiences in fragments, such as actions, locations, or sensations, rather than clear dates, times, or sequences. Reports are still valuable; adults must listen in ways that correspond with the child's development, not adult standards (Table 7.1).

Table 7.1 Adult Expectations, Child Realities, and Practical Interview Responses

Adult Expectation	Child Reality	How This Should Affect the Investigator's Approach	Helpful In-the-Moment Strategy
Child gives a complete, chronological account with clear dates and times.	Child remembers events in fragments and may not know or state specific dates, times, or sequences.	The investigator should not expect the child to tell the story in a neat adult-style order. Instead, the interviewer should focus first on what happened, who was there, and what the child remembers most clearly before trying to organize the timeline.	Use prompts such as “Tell me everything you remember,” “Then what happened?” and “What do you remember next?” Avoid pushing too early for exact dates or clock times if the child is not developmentally ready to provide them.
Child understands and correctly uses adult vocabulary and concepts.	Child may use limited, concrete, or familiar words and may struggle with complex terms.	The investigator should listen closely to the child's own language and avoid replacing it too quickly with adult terminology. Clarification should be careful and neutral so the child explains meaning without being given new words to adopt.	Use simple, concrete questions and reflect the child's words back for clarification, such as “You said he touched you there. Tell me what you mean by there.” Do not assume the child and adult mean the same thing by the same word.
Child explains repeated events by separating each occurrence.	Child may blend repeated experiences together, describing what “usually happens” rather than breaking out every detail.	The investigator should understand that repeated events can be harder for children to separate into single episodes. This should not be treated as automatic proof that the child is confused or untruthful. Instead, the interviewer should carefully explore whether the child is describing one event, many events, or a pattern.	Ask questions like “Did that happen one time or more than one time?” and “Tell me about one time you remember best.” This helps the child move from a general pattern to a more specific episode when possible.
Child provides answers like an adult would under questioning.	Child may pause, change topics, or respond with “I don't know” to difficult questions.	The investigator should not mistake pauses, topic shifts, or uncertainty for deception or refusal. Children may need more time to think, may lose track of the question, or may genuinely not know the answer in the way the adult expects.	Slow the pace, ask one question at a time, and give the child permission to say “I don't know,” “I don't understand,” or “I don't remember.” If needed, return to the topic gently instead of treating the response as resistance.

This comparison reminds investigators that children are not simply smaller adult witnesses. Strong child interviewing requires adults to adjust their expectations, use developmentally appropriate questions, and respond in ways that support clear, accurate communication. Knowing these differences helps adults change their approach: interviewers should always let the child's developmental abilities guide the interview rather than rely on adult assumptions. Key takeaway: Adjust your expectations and questioning to match the child's developmental level for more effective communication.

Language ability matters a lot. A child may understand more than they can express. Some children answer a question even when they do not understand it. They see adults as authority figures and want to be cooperative. Forensic interviewers are taught to use simple, concrete wording and check comprehension. They should

not assume that a nod or a short answer means true understanding (Lyon, 2014; Saywitz et al., 2019). Table 7.2 shows why child forensic interviewers should avoid formal, abstract, and adult-centered wording. Child-friendly phrasing helps children understand the question, reduces confusion, and makes it more likely that their answers will reflect their own memory rather than their effort to guess what the adult means.

Table 7.2 Adult Phrasing and Child-Friendly Alternatives in Child Forensic Interviews

Example	Adult Phrasing	Child-Friendly Version	Why the Child-Friendly Version Works Better
1	“Please describe in detail all the events that occurred on September 12th after you returned to your residence. Was anyone else present in the room?”	“Tell me what you did when you got home that day.” “Who was with you in the room?”	The child-friendly version uses simpler words, avoids formal language, and breaks the question into parts that are easier for a child to understand and answer.
2	“Were there any instances in which someone behaved inappropriately toward you after school in the past month?”	“Did anybody do something that made you feel upset or worried after school?”	The child-friendly version avoids abstract terms such as “instances” and “inappropriately” and uses words a child is more likely to understand in everyday speech.
3	“Can you identify the location where the contact took place and specify the sequence of events that followed?”	“Where were you when that happened?” “What happened next?”	The child-friendly version replaces complex wording with short, concrete questions and helps the child focus on one idea at a time.
4	“Did the individual make any statements of a threatening, sexual, or otherwise coercive nature?”	“Did the person say anything that made you uncomfortable?”	The child-friendly version removes legal and adult-centered language and uses emotional terms a child may understand more easily from personal experience.
5	“How many separate occurrences of this conduct have taken place, and can you distinguish one event from another?”	“Did that happen one time or more than one time?” “Tell me about one time you remember best.”	The child-friendly version matches how children often remember repeated events and helps them move from a general pattern to a specific memory without overwhelming them.

To check comprehension, the interviewer might say, ‘Can you tell me what I just asked you in your own words?’ or ‘If you are not sure what I mean, you can tell me.’ A child may be trying to please the adult, not trying to deceive. That is why interviewers must give permission to say, ‘I don’t know,’ ‘I don’t understand,’ or ‘That’s wrong.’ Sample phrases include, ‘It’s okay to say if you don’t remember,’ or ‘If you don’t know something, just tell me.’ These examples help ensure the child feels safe being honest and show the interviewer that accurate, child-led responses are valued.

Memory development is important. Children can provide accurate information, especially to open-ended questions about personal experiences. Their reports may weaken if questions are leading, repetitive, complex, or emotionally intense. Some struggle to separate repeated abuse episodes, recalling what usually happened rather than each event. This reflects memory organization, not automatic falsity. Blurry timelines are memory organization issues, not red flags for fabrication. Repeated events can blend together in memory even when they really happened.

Developmental differences also mean interviewers should not make quick adult interpretations of a child's language. A child's word choice may reflect limited vocabulary, the way their family talks, or their attempt to describe something they do not know well. Clarification is important, but interviewers must not introduce new terms or meanings (Faller, 2015; Lyon, 2014). If a child uses a vague word for a body part or an action, the interviewer should explore what the child means rather than replacing it with adult labels too quickly.

Washington's child interview guide stresses the importance of using the child's language, adapting methods to each child, and avoiding forcing every child into a single script (Merchant & Toth, 2009). The main point: adjust language and approach to fit the child, not just the protocol. This helps the child's experience come through clearly. Child development is central to the interview, not just background.

Slow Down and Think: *A six-year-old says something happened "last time when it was dark," but cannot say what day it was. Does that make the child unreliable? What kinds of details might still be valuable even if the child cannot give a date?*

Watch Your Step

General Public: "If a child cannot give exact dates and times, the memory is not useful."

Expert: Children often remember people, actions, body parts, locations, and routines better than calendar dates or exact clock times. Investigators should not demand adult-style time precision from a child witness.

Pro Tip

Match your language to the child’s developmental level, not to the seriousness of the case. Short questions, familiar words, and patience often produce far better information than legal or adult-centered wording. Research by Lamb and colleagues, along with APSAC guidance, consistently supports developmentally appropriate questioning. Clarity helps children show what they know.

7.3 Suggestibility and the Danger of Poor Questioning

One of the most studied issues in child interviewing is suggestibility. Suggestibility means a child’s report can be affected by misleading questions, interviewer expectations, social pressure, or repeated suggestion. Children are not equally suggestible in all situations. Older children are often less vulnerable than younger children. Still, the risk is real. That is why question style is central to good practice (Ceci & Bruck, 1995; Saywitz et al., 2019).

Slow Down and Think: *An interviewer asks, “He touched you under your clothes, didn’t he?” and the child softly says yes. What makes that response hard to interpret? How could the same topic be explored in a less suggestive way?*

That point is worth slowing down for. People sometimes hear that children can be suggestible and jump to the wrong conclusion. They assume that children’s reports are inherently weak. That is not what the research shows. The more accurate lesson is that children can provide useful and accurate information, but the quality of that information depends heavily on how adults ask questions and respond to answers. The problem is often not the child. The problem is the interview.

If you are a practitioner, take a moment to reflect: Which risky question types shows up most often in your interviews? Do you find yourself repeating questions, giving praise that might influence a child, or using forced-choice prompts? Pausing to review your own habits can help you spot areas needing improvement and make your questioning more effective and reliable.

Research shows open-ended prompts usually produce more accurate information than specific or suggestive questions. Prompts like “Tell me everything that happened” or “Then what happened?” let the child recall

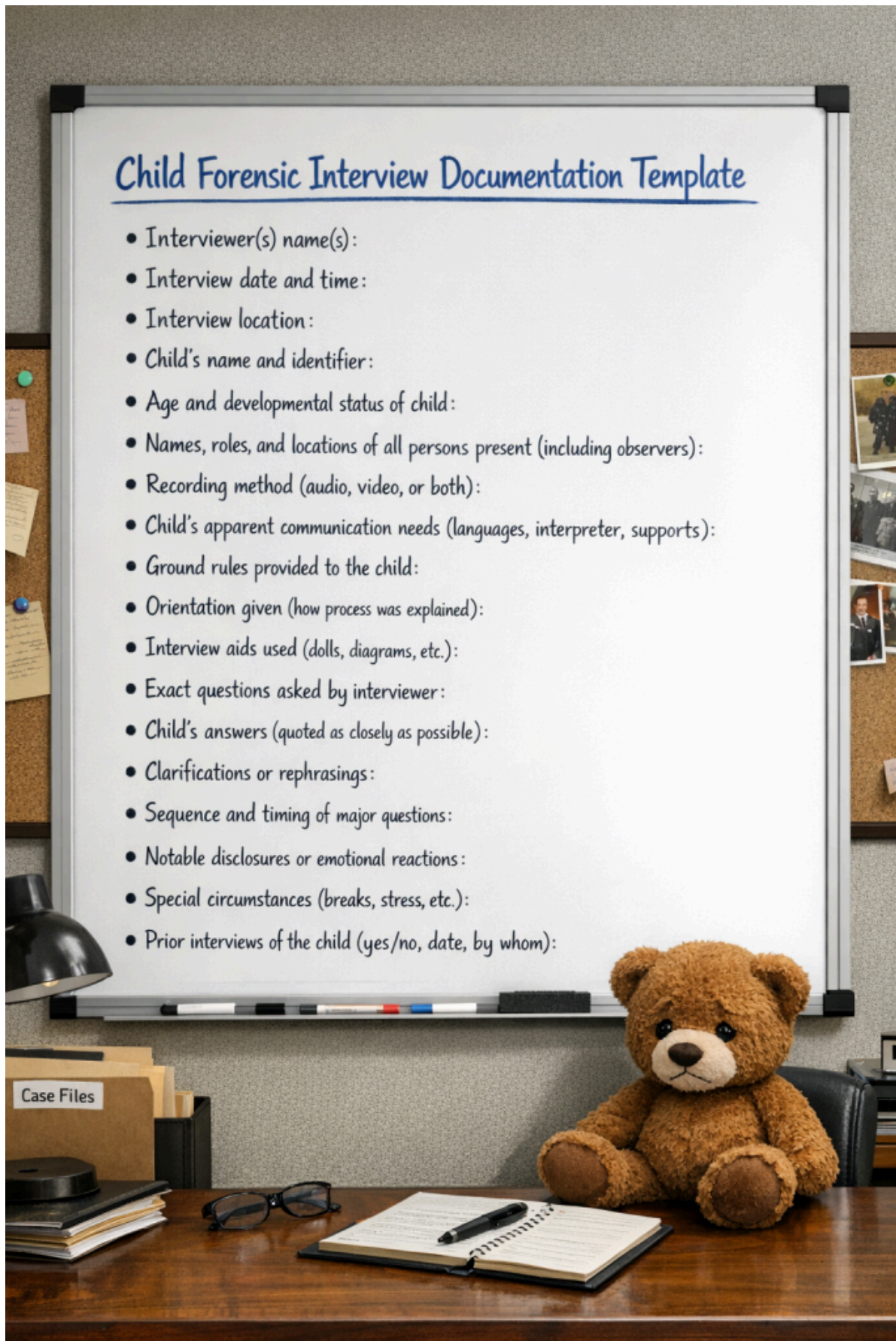
information from memory, not just respond to the structure of the adult's question. Later, focused questions can help explain details, but they should be used only after the child gives a narrative account (Lamb et al., 2008; Lamb et al., 2018). Thomas Lyon's review notes interviewers overuse closed-ended questions. These tend to yield short answers, increase the likelihood of guessing, and increase the risk of response bias. Careful documentation of these elements allows for later evaluation, supports investigative integrity, and helps protect both the child and the legal value of the interview. Michael Lamb and colleagues have long stressed that recall prompts are more accurate than recognition prompts, and ChildFirst's published description says the same thing in plain language: interviewers should rely heavily on open-ended and cued recall prompts, use focused questions later, and avoid letting preconceived ideas shape the interview (Farrell & Vieth, 2020). That is not just theory. It is one of the core habits that separates a careful forensic interview from a suggestive one.

Poor questioning can create problems in the courtroom. If the interviewer suggests details, narrows choices too soon, or uses the child's uncertainty as a reason to push harder, reviewers may not be able to tell what came from the child and what came from the interviewer. That is why recording and careful documentation matter. A clear record helps others see both what the child said and how the child was asked (Faller, 2015; Lyon, 2014).

To ensure thorough, defensible record-keeping, it is foundational to document several key elements of the interview. To support this process, practitioners can use the following "must-capture" template as a fill-in form for every interview report. Using a standard template reduces omissions and supports the defensibility theme that underpins best practice.

Child Forensic Interview Documentation Template

- Interviewer(s) name(s):
- Interview date and time:
- Interview location:
- Child's name and identifier:
- Age and developmental status of child:
- Names, roles, and locations of all persons present (including observers):
- Recording method (audio, video, or both):
- Child's apparent communication needs (languages, interpreter, supports):
- Ground rules provided to the child:
- Orientation given (how process was explained):
- Interview aids used (dolls, diagrams, etc.):
- Exact questions asked by interviewer:
- Child's answers (quoted as closely as possible):
- Clarifications or rephrasings:
- Sequence and timing of major questions:
- Notable disclosures or emotional reactions:
- Special circumstances (breaks, stress, etc.):
- Prior interviews of the child (yes/no, date, by whom):



Watch Your Step

General Public: “If a child is shy or brief, the interviewer should become more specific right away.”

Expert: Sometimes the child needs more support for free recall, not more suggestion. Jumping too quickly to specific questions can contaminate the very information the investigator is trying to protect.

Pro Tip

When you feel the urge to fill in the gap for the child, stop and reframe the question. The strongest child interviews rely on prompts that invite recall rather than confirm a suspected answer. The NICHD-influenced research base and APSAC guidance both support open invitations before narrow prompts. Let the child do the reporting whenever possible.

7.4 Rapport Building, Ground Rules, and Narrative Practice

Before asking about the event of concern, effective child forensic interviews usually begin with rapport building and orientation. Rapport in this setting means helping the child understand the process, feel respected, and practice talking with the interviewer in a way that supports later recall. It does not mean making promises or pressuring the child to disclose. It means building a safe and well-defined structure for the conversation (Lamb et al., 2018; Saywitz et al., 2019). Research shows that investment in rapport and narrative practice leads to improvements; for example, one study found that children provided up to twice as many words and significantly more details after effective rapport and narrative practice than in interviews

without this phase (Price et al., 2013). This kind of data emphasizes why rapport is not just a “soft” skill but an important component of evidence gathering.

Rapport matters because children usually do better when they know what kind of conversation it is. Many children enter the room not knowing who the interviewer is, why they are there, or what they are supposed to do. Some are nervous around strangers. Some are worried they are in trouble. Some are scared of what will happen if they talk. A strong rapport phase lowers confusion and gives the child a better chance to participate accurately.

Slow Down and Think: *An interviewer skips ground rules and begins with direct questions about possible abuse within the first minute. What might the child misunderstand about the interviewer’s expectations? How could that affect later answers?*

Ground rules are central to this opening phase. Children should be told that it is okay to say “I do not know,” “I do not understand,” or “I do not remember.” They should also be told that the interviewer was not there and needs the child to correct mistakes. These rules matter because children often assume adults already know the answers and may try to be helpful even when unsure (Lyon, 2014; Saywitz et al., 2019). In practice, these rules protect accuracy by giving the child permission not to guess.

Narrative practice is another important tool. In this phase, the child is asked to describe a neutral recent experience, such as a birthday, school activity, or family outing, in detail. This helps the child learn the interview style and gives the interviewer a

chance to see how the child communicates, how much detail they can provide, and which prompts work best. Research has linked narrative practice to better recall later in the substantive part of the interview (Lamb et al., 2018; Sternberg et al., 1997). Try this in your next team meeting: rehearse narrative practice by role-playing with a colleague on non-sensitive topics to get comfortable with open-ended prompts and active listening.

ChildFirst describes narrative practice as “episodic memory training” and explains that the interviewer should discuss a neutral topic from the beginning, middle, and end while gathering sensory information about sights, smells, sounds, and taste. ChildFirst also explains that rapport is not something that ends after the opening phase but should continue throughout the interview. Washington’s CAIA quick reference guide reflects the same logic. It tells interviewers to begin with an introduction, ground rules, a truth discussion as needed, and narrative practice before transition, and it gives concrete examples of how to do this, including practice around not guessing and correcting the interviewer.

These steps might seem slow, especially when adults want quick answers, but they are not wasted time. They are part of gathering evidence. A child who understands the interview rules is more likely to give a careful account. A child who has practiced telling a story is more likely to share details later. A child who knows the

interviewer welcomes correction is less likely to just agree with adult mistakes. Rapport and narrative practice are not just warm-ups; they help protect the truth in the interview.

Watch Your Step

General Public: “The interviewer should get to the allegation right away so the child does not lose focus.”

Expert: A rushed start can reduce both comfort and detail. Children often provide better information after the interviewer sets ground rules and practices narrative recall first.

Pro Tip

Use the opening phase to teach the child how the interview works before asking about the allegation. Narrative practice is not wasted time. Research tied to the NICHD approach and broader child interview literature shows that it often improves later detail and reduces compliance-based answering. Good beginnings support better substantive interviews.

7.5 Structured Protocols and Evidence-Based Models

Modern child forensic interviewing increasingly relies on structured protocols rather than unplanned conversation. Structured protocols help interviewers move through phases in a consistent order, reduce suggestive practices, and support greater use of open-ended prompts (Lamb et al., 2007a). There are several credible models in the field, including NICHD-based approaches, NCAC, CornerHouse, and APSAC-informed structures. For this section, the two models highlighted are ChildFirst and Washington’s CAIA approach, both of which are especially relevant to your chapter’s focus and practice in Washington.

ChildFirst

ChildFirst is one of the most widely taught forensic interview training programs in the United States and is approved to meet the National Children's Alliance accreditation standards (Farrell & Veith, 2020). Published descriptions of ChildFirst explain that the model draws on common elements across the major forensic interview approaches and organizes the interview into four broad phases: rapport, transition to topic of concern, explore details, and closure. It also includes a decision-tree method that helps interviewers explore different forms of maltreatment rather than assuming the case is about only one type of abuse (Farrell & Vieth, 2020).

In the ChildFirst rapport phase, the interviewer introduces the setting, begins relationship building, and uses narrative practice or episodic memory training. The child is asked to talk about a neutral event from beginning to end, often with sensory detail. ChildFirst also teaches interview instructions and truth-oriented discussions as required by local practice, but it makes clear that rapport should continue throughout the interview, not just the first few minutes. This phase helps the interviewer learn how the child speaks, how much detail the child can provide, and which prompts are most effective.

The second ChildFirst phase is the transition to the topic of concern. Here, the interviewer uses open invitations such as "What do you know about being here today?" or asks what the child was told about coming to the interview. ChildFirst's decision tree also allows greater exploration of family relationships, body-part language, and what is "OK" or "not OK." This matters because some children disclose fear, neglect, emotional abuse, or witnessing violence before they disclose sexual or physical abuse. ChildFirst is intentionally built to make room for that broader picture rather than forcing every interview onto a single narrow path.

The third phase, explore details, is where the interviewer gathers the child's account in detail. The interviewer uses the child's own words, open invitations, cued invitations, and focused follow-up questions when needed. ChildFirst also teaches interviewers to consider alternative explanations and not become locked into one theory too early. Before closure, the interviewer conducts a safety or polyvictimization screen. That means the interviewer checks for other forms of maltreatment, such as physical abuse, neglect, domestic violence, emotional abuse, or sexual exploitation, if the child has not already raised them. ChildFirst adopted this screening approach because many children who experience one kind of maltreatment experience others as well (Farrell & Vieth, 2020, pp. 58-61) .

The fourth phase is closure. ChildFirst describes closure as a respectful ending in which the interviewer checks for questions or concerns, brings the child back to a neutral topic, and addresses safety in a developmentally appropriate way. The model does not treat closure as an afterthought. It treats it as part of protecting the child and leaving the interview in a more regulated state than an abrupt ending would allow.

Child Abuse Interviewing and Assessment (CAIA)

Washington's CAIA approach, which stands for Child Abuse Interviewing and Assessment, is best understood as a state training framework and interview structure rather than a single branded national protocol. The Washington State Criminal Justice Training Commission describes CAIA as a 32-hour multidisciplinary course for law enforcement investigators, prosecutors, and specialized child interviewers, with an emphasis on current, research-based techniques and the structure of interviews shown to elicit reliable information. The Washington State Child Interview Guide associated with this training states that it was developed by the Washington State Criminal Justice Training Commission and Harborview Center for Sexual Assault and Traumatic Stress, and that it is based on the NICHD Investigative Interview Protocol developed by Michael Lamb, Kathleen Sternberg, and colleagues (Merchant & Toth, 2009).

The CAIA guide lays out a practical interview sequence. It begins with an introduction, ground rules, a discussion of truth as needed, and narrative practice. The interviewer explains documentation and observers, gives the child permission not to guess, asks the child to correct the interviewer's mistakes, and tells the child that the interviewer does not know the answers. The guide then moves to narrative practice, where the interviewer invites the child to talk in detail about a neutral event. Next comes transition, often using prompts such as "Tell me why you're here today" or "I heard something might have happened. Tell me what happened." Substantive questioning then follows a pattern of separating events if abuse happened more than once, inviting a broad narrative, elaborating with cued invitations, focusing when necessary, and then clarifying before closure. Closure includes a recap in the child's words and thanks for the child's effort, not for specific content.

Slow Down and Think: *An interviewer says, "I do not use protocols because I prefer to go with my instincts." Why might that be risky in a child abuse investigation? What kinds of errors become more likely when structure disappears?*

The CAIA guide is especially useful because it turns broad research principles into concrete practice. It tells interviewers to use the child's language, to be patient, to think before asking the next question, and to remember that the interview is only one part of a larger investigation that should, when possible, lead to corroborating evidence. It also provides practical examples of pairings, such as a focused question followed by an open-ended invitation, which help interviewers gather the needed detail without slipping too quickly into suggestive questioning.

When the two models are compared, the most important point is not that one is right and the other is wrong. The more important point is that both are built around the same modern principles: rapport, neutrality, open-ended prompts, developmentally appropriate communication, careful clarification, and full documentation.

ChildFirst stands out for its four-phase structure, decision-tree design, and explicit polyvictimization screening. Washington's CAIA approach stands out for its practical step-by-step guide, its NICHD foundation, and its integration into statewide multidisciplinary training. Both models treat the interview as a structured evidence process, not as a casual chat or a pressure session.

Watch Your Step

General Public: "A skilled interviewer does not need a protocol."

Expert: Skill and structure work together. Protocols do not replace professional judgment. They help protect it from drift, bias, and avoidable suggestion.

Pro Tip

Protocols are most effective when agencies support ongoing training, supervision, and review, not just a one-time workshop. Interview quality improves when professionals receive feedback on real interviews and track how often they use open prompts versus narrow ones. Research on protocol implementation and child advocacy center practice supports this continuous improvement model. Good interviewing is a trained, ongoing, and constantly developed habit.

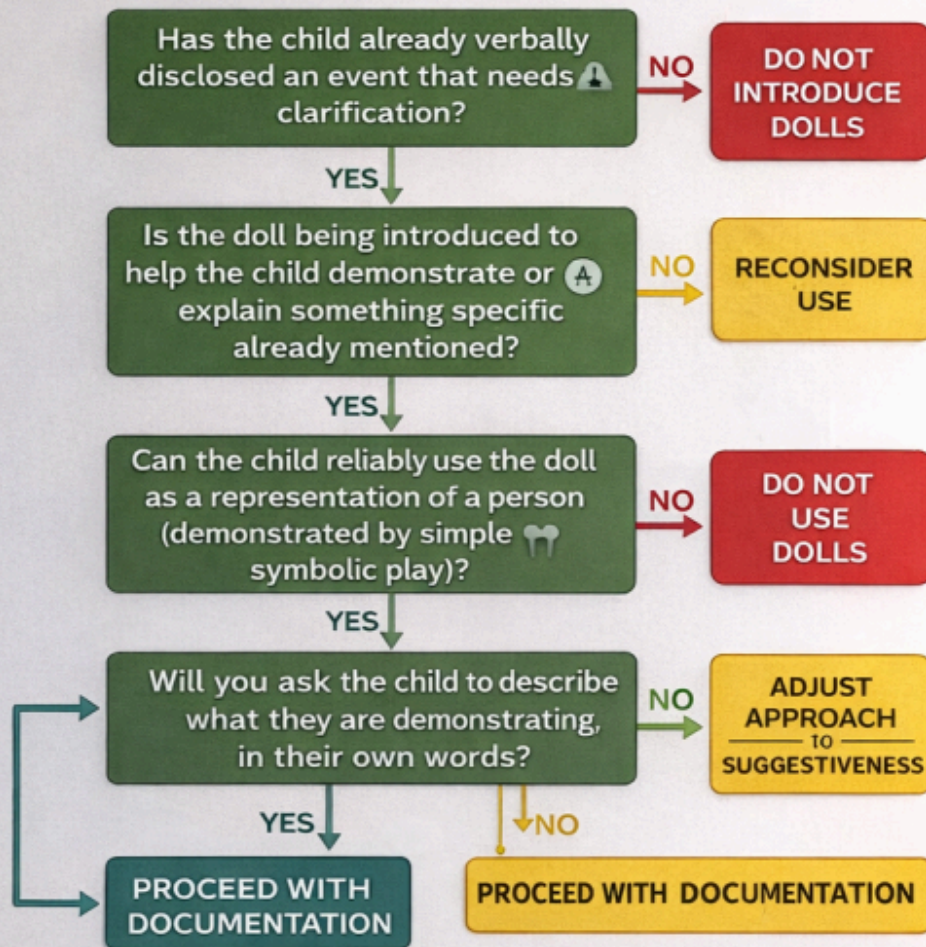
7.6 The Use of Dolls in Forensic Interviewing and Best Practices

The use of dolls in child forensic interviewing is a debated topic, but the discussion is often more intense than the actual differences in best practice. Modern practice does not support using dolls as a shortcut, as the first step, or as a replacement for the child's words. However, some evidence-based programs allow careful use of

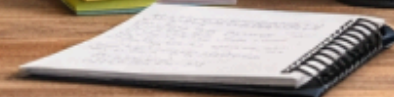
dolls as demonstration aids in certain situations. The main question is not whether dolls are always good or bad. Instead, practitioners should ask: Will this doll help clarify something the child already said, or will it introduce new information (Hlavka, 2010)? This practical test helps guide decisions about using dolls. The important issue is when, why, and how they are used. For quick field reference, practitioners can use Figure 7.1 when considering the use of dolls in a forensic interview. Use dolls only when ALL the conditions are met. If in doubt, refrain and prioritize open-ended, verbal narrative first:

Doll Use Decision Snapshot: Clarify or Create?

Use dolls only when ALL conditions are met. If in doubt, refrain and prioritize open-ended, verbal narrative first.



Use dolls only when ALL above conditions are met. If in doubt, refrain and prioritize open-ended, verbal narrative first.



Doll Use Decision Tree | Image by M. McHenry

ChildFirst’s published position is clear. ChildFirst supports dolls only when their use is appropriate, consistent with research and guidelines, and tied to a legitimate purpose. The child must be able to make a representational shift, meaning the child understands that the doll stands for a real person. The dolls are used only as a demonstration aid, and only after the child has verbally disclosed maltreatment or a body-related event that needs clarification (Farrell & Vieth, 2020; Hlavka et al., 2010). ChildFirst’s own literature review also argues that the most effective use of media is not early in the interview, but later, after open-ended questions have already been tried and the interviewer is trying to clarify what the child is communicating. This fits broader research warning that props should not replace strong verbal interviewing and that early or routine use of props can create risks rather than solve them (Farrell & Vieth, 2020; Poole et al., 2011).

That is an important limit. In other words, the doll should not be the thing that starts the allegation. The child’s words should come first. The doll may then help clarify where on the body something happened, how contact occurred, or what the child is trying to describe when words are limited. The ChildFirst position paper also notes that there are advantages to media for some children, including giving them more than one way to communicate, helping reduce the need for repeated direct questions, and, in some situations, helping with memory or lowering the stress of having to verbalize everything exactly (Gundersen National Child Protection Training Center, 2016). At the same time, the same paper makes clear that dolls can be misused. Research concerns increase when adults introduce dolls too early, use them with children who are too young to understand that the doll represents a real person, ask leading or presumptive questions while using them, or treat a child’s play-like actions as if those actions alone prove abuse (Farrell & Vieth, 2020; Hlavka et al., 2010). The safest practice is to treat dolls as limited clarifying tools, not as truth machines. That is why even ChildFirst, which allows them, uses them only after verbal disclosure and only for demonstration or clarification purposes (Farrell & Vieth, 2020).

Washington’s CAIA guide is more cautious and emphasizes interview tools generally rather than dolls specifically. It tells interviewers to focus on complete verbal narrative accounts whenever possible and to use tools such as body diagrams or drawings cautiously and only when needed. It warns interviewers not to use diagrams or drawings during the transition stage to introduce the topic of concern. Instead, those tools may be used later to clarify abuse-related statements already provided by the child or to clarify the child’s terms for body parts after the interviewer has tried to obtain as complete a verbal account as possible (Harborview Center for Sexual

Slow Down and Think: A

child first says nothing happened, then later discloses abuse during a forensic interview after ground rules and rapport building. Does the earlier denial automatically

destroy credibility? What are some child-centered reasons that disclosure might change over time?

Assault & Traumatic Stress, 2009). That general logic fits closely with best practice for dolls as well. First, try to get the child's words. Use the least suggestive tool that will do the job. Preserve the child's explanation. Do not let the tool become the source of the allegation.

A careful best-practice approach to dolls, therefore, includes several rules. First, use them only when there is a clear reason. Second, do not use them until the child has verbally disclosed something that needs clarification. Third, make sure the child

understands that the doll represents a person. This ability is known as a “representational shift,” which usually develops between ages 5 and 6, though individual children may achieve it earlier or later (Salkind, 2006). Before introducing dolls, interviewers should briefly assess whether the child can engage in symbolic play, such as asking the child to show how to brush the doll's hair or to point to the doll's arm when it is named. If the child is unable to treat the doll as a stand-in for a real person, dolls should not be used. Fourth, ask the child to explain verbally what is being shown rather than treating the demonstration as self-explanatory. Fifth, record the full process so later reviewers can see exactly how the tool was introduced and used. Sixth, remember that the doll is a support for the child's account, not a replacement for open-ended questioning. These limits help protect both the child and the legal value of the interview.

Watch Your Step

General Public: “If a child did not tell right away, the report is probably not true.”

Expert: Delayed disclosure is common in many abuse cases. Fear, loyalty, shame, confusion, and trauma can all affect when a child feels able to tell.

Pro Tip

Do not confuse delayed or partial disclosure with proof of deceit. Instead, document the disclosure pattern carefully and evaluate it in context. APSAC guidance and disclosure research both show that children may reveal information unevenly for many understandable reasons. Your job is to preserve the pattern accurately, not to flatten it into a simpler story.

7.7 Trauma, Disclosure Patterns, and Why Children May Not Tell in a Straight Line

Children do not always disclose abuse or violence quickly, fully, or in a neat sequence. Some disclose right away. Some deny at first and disclose later. Some disclose partially. Some recant after disclosure because of fear, family pressure, loyalty conflicts, shame, or confusion. Consider Maya, age 10, who first insisted nothing had happened, later told her grandmother, “I have a secret,” and, only weeks later, explained with difficulty what she had experienced. Stories like Maya’s remind us that the path to disclosure can be long and uneven. These patterns can be frustrating to investigators, but they are well recognized in the literature and should not be treated as automatic proof of fabrication (Malloy et al., 2007; Saywitz et al., 2019).

This matters because adults often expect a straight-line story. They expect that if something serious happened, the child will tell right away, tell clearly, and then never change. Real disclosure often works differently. Children may test whether it is safe to tell. They may reveal one detail and hold back another. They may later minimize what happened because they are scared of what will happen to the offender, the family, or themselves.

Trauma may affect attention, emotional regulation, and memory organization. A child may describe sensory details vividly while struggling with sequence, frequency, or surrounding context. In repeated abuse cases, a child may remember what usually happened but find it harder to distinguish one occasion from another. That difficulty is often related to how repeated experiences are stored and described, rather than to dishonesty (Brubacher et al., 2011; Faller, 2015).

Children may also worry about consequences. They may fear that a caregiver will be arrested, that the family will break apart, that no one will believe them, or that they will get into trouble. Some children protect the very adult who harmed them because of attachment, dependency, or fear. These emotional realities can shape when and how disclosure occurs (Malloy et al., 2007; Olafson, 2012). A trauma-informed interviewer recognizes that these pressures are part of the case, not side issues.

This is why a trauma-informed perspective is important in child forensic interviewing. Trauma-informed practice does not mean believing every allegation without scrutiny. It means understanding how stress, fear, and relationship dynamics may shape disclosure and recall, then conducting the interview in a way that reduces pressure and supports careful listening (APSAC, 2012; Olafson, 2012). The interviewer should remain neutral, but also be informed enough not to misread hesitation, partial disclosure, or an uneven story as automatic proof that nothing happened.

7.8 Communication Supports, Culture, and Individual Needs

Children differ widely in communication style and support needs. Some children may have developmental disabilities, autism, speech or language differences, intellectual disabilities, hearing loss, or limited English proficiency. Others may come from cultural backgrounds in which eye contact, silence, or talking to unfamiliar adults may carry different meanings. Interviewers must be careful not to mistake these differences for evasiveness or unreliability (Brown et al., 2013; Saywitz et al., 2019). Before interpreting a child's behavior, it can be helpful to pause and reflect: What unspoken norm might shape this child's silence? Taking this momentary cultural humility checkpoint helps guard against mislabeling cultural style as evasion.

It is also helpful for interviewers to pause for self-reflection: What cultural assumptions am I bringing into the room, and how might they shape my responses? Actively considering this question can deepen cultural humility and reduce the risk of misunderstanding a child's behavior or communication style. By making space for ongoing personal reflection, interviewers reinforce the commitment to seeing each child as an individual within their own cultural context. This is especially important because a child can be truthful and still communicate in ways that adults misread. A child may pause for a long time before answering. A child may repeat words. A child may avoid eye contact. A child may answer concretely and not understand a broad or abstract question. These are not small details. They can affect how the whole interview unfolds.

Slow Down and Think: *A child with a language disorder gives very short answers and needs extra time to respond.*

When language access is needed, qualified interpreters are essential. Family members should not serve as interpreters in forensic interviews because they may influence the child's willingness to speak or may alter the meaning. The same principle applies when a caregiver strongly opposes the allegation. The child needs a setting where communication can be as accurate and independent as possible (U.S. Department of Justice, 2015).

Interviewers should also adapt pacing and question style for children with communication differences. More processing time, shorter questions, visual clarity, and careful checking for comprehension may be needed. For example, if a child has limited expressive language skills, the interviewer might use yes/no or choice questions sparingly after first trying open-ended prompts, and allow extra time for the child to respond. For a child who uses a communication device, the interviewer could offer the opportunity to use that device to answer or indicate choices. For children with hearing loss, visual aids, gestures, or ensuring the child can see the interviewer's face clearly may help. If a child has limited English proficiency, the interviewer may speak slowly, use simple words, pause frequently, and confirm understanding, often with assistance from a qualified interpreter. With children on the autism spectrum, visual schedules or social stories can help them know what to expect, while reducing sensory distractions in the setting may improve concentration. Adaptation should never become suggestion. The goal is to support the child's ability to communicate what is remembered, not to help build an answer (Brown et al., 2013; Lyon, 2014). Zero Abuse Project's guidance for interviewing children with disabilities makes this point clearly. It explains that interviewers may need to spend more time in rapport, use narrative practice to learn what prompts work best, and treat interview aids as purposeful tools rather than automatic features of every interview.

How should the interviewer adapt without becoming leading? What would unfairly turn support into suggestion?

Culture matters too. Children and families may vary in how directly they speak about bodies, how they respond to authority, how much emotion they show, and whether they are comfortable correcting adults. A skilled interviewer does not stereotype, but also does not assume every child communicates the same way. Respectful and precise language helps here. So does slowing down enough to understand what the child means rather than jumping to adult interpretations.

Watch Your Step

General Public: "If a child answers slowly or avoids eye contact, something is wrong with the story."

Expert: Slow pacing or reduced eye contact may reflect developmental, cultural, or emotional factors rather than deception. Interviewers should first understand the communication context.

Pro Tip

Plan for communication needs before the interview begins whenever possible. That includes interpreter arrangements, developmental information, sensory needs, and pacing adjustments. Research on interviewing children with individual support needs, along with DOJ language access guidance, supports preparation as a core part of interview quality. Access and accuracy go together.

7.9 Documentation, Recording, and Evaluating the Child's Account

Because child forensic interviews are so sensitive to question style and interviewer influence, full documentation is essential. Audio or video recording is especially valuable because it preserves not only what the child said but also how the questions were asked, which prompts were used, and whether the interviewer remained neutral. Without that record, later reviewers may have difficulty separating the child's account from the structure of the interview itself (Faller, 2015; Lamb et al., 2018). That record matters in many ways. It helps investigators evaluate what the child actually disclosed. It helps prosecutors and defense attorneys assess the fairness of the process. It helps judges decide on admissibility. It helps peer reviewers and supervisors improve practice. And it reduces the need to rely on memory or polished summaries that may smooth over important uncertainty.

Documentation should include the setting, who was present, the child's apparent communication needs, whether ground rules were provided, how the child was oriented to the process, and the exact language used during major disclosures. Investigators should also note whether the child had been interviewed previously and whether any contamination concerns were known (APSAC, 2012; Saywitz et al., 2019). If the child said, "I think," "I don't know," or "I'm not sure," those limits should stay in the record. Before moving on, pause and ask: What corroboration step will you schedule immediately after the interview? Embedding this habit helps ensure the child's account remains actively connected to other evidence streams, strengthening both investigative outcomes and the child's protection.

After the interview, the child's account should be evaluated against other case evidence such as medical

findings, digital evidence, witness statements, timelines, and behavioral context. Investigators should not expect the child to answer every question on their own. Like all evidence, it gains meaning through careful comparison, corroboration, and disciplined review (Faller, 2015; Lyon, 2014). Zero Abuse Project's admissibility guide also stresses how central a well-documented forensic interview can be in prosecution and why the original statement can remain powerful even when time passes, or the child later struggles on the stand.

Strong documentation also reduces unnecessary repeat interviewing. When the original interview is clear and well-preserved, later professionals can review that record rather than requiring the child to start over. That matters for both the quality of evidence and child well-being. A strong record protects the child and the interviewer and gives the justice system a better chance of conducting a fair review of the interview.

Chapter Summary

Child forensic interviewing is a specialized process that asks a great deal from both the child and the interviewer. Children can provide important and accurate information, but they do so through developing memory, language, and communication systems. That means adults must interview them in ways that match child development rather than adult expectations. Strong interviews rely on rapport, ground rules, narrative practice, open-ended questioning, and careful clarification. Weak interviews rely too heavily on pressure, repetition, and suggestion.

Structured approaches help protect both children and evidence. ChildFirst uses a four-phase design with rapport, transition, detail exploration, and closure, along with a decision tree and polyvictimization screen. Washington's CAIA approach uses a practical interview sequence grounded in NICHD-style principles, including introduction, ground rules, narrative practice, transition, substantive questioning, and closure. Both emphasize the same core lesson: the interviewer should listen more than talk, and the child's words should lead the way (Farrell & Vieth, 2020;).

Dolls and other tools should be handled with care. They are not replacements for verbal narrative and should not be used as shortcuts. When used at all, best practice is to use them purposefully, after verbal disclosure, and only to clarify what the child is already trying to communicate. Trauma,

suggestibility, communication needs, and culture all shape the interview. That is why good interviewing requires both discipline and flexibility.

For investigators, the central lesson is clear: a child forensic interview is not just a talk with a child. It is a structured evidence process. Done well, it can protect a child, guide an investigation, and create a clearer path toward justice. Done poorly, it can harm the child and weaken the case at the same time.

End of Chapter Activities

Case Study Analysis

Case:

The McMartin Preschool Investigation

The McMartin Preschool case is often discussed in psychology and law because it raised major concerns about suggestive questioning, repeated interviews, and the difficulty of separating children's independent memories from interviewer influence. The case remains an important teaching example for why structured, evidence-based child interviewing practices are necessary (Ceci & Bruck, 1995; Faller, 2015).

Your task: Write a case analysis explaining how poor child interviewing practices can damage both a criminal investigation and the search for truth. In your response, discuss the role of suggestive questioning, repeated interviews, social pressure, and the lack of careful structure. Then explain how a modern protocol-based forensic interview would handle the same type of concern differently. End by identifying three specific safeguards that should be required whenever children are interviewed about possible abuse.

Choose Your Own (Detective) Adventure

Skills Lab 1: Rewrite the Questions

Take ten poorly written child interview questions, including leading, forced-choice, or repeated questions, and rewrite them into developmentally appropriate prompts. Then explain why each revised question better protects accuracy.

Skills Lab 2: Build the Opening Phase

Create a detailed opening script for a child forensic interview that includes rapport building, ground rules, and narrative practice. Make sure your script gives the child permission to say “I do not know,” “I do not understand,” and to correct the interviewer.

Skills Lab 3: Development Check

Using a mock case involving a seven-year-old child, write a short planning memo explaining how age, language, memory for repeated events, and attention span should shape the interview strategy.

Skills Lab 4: Disclosure Pattern Map

Review a fictional case in which a child first denies abuse, later gives a partial disclosure, and then adds details in a formal interview. Create a chart explaining several possible reasons for the disclosure pattern and how investigators should document it without oversimplifying it.

Skills Lab 5: Interview Quality Audit

Read a short transcript of a child interview and identify every prompt that is open-ended, focused, leading, repetitive, or suggestive. Then write a brief evaluation of how the interviewer could improve the protocol use.

Questions That Change How You Think

1. Why is child forensic interviewing one of the most demanding forms of investigative interviewing?
2. What is the difference between supporting a child’s communication and suggesting an answer to the child?
3. Why are open-ended questions especially important in child abuse investigations?
4. How can repeated questioning change a child’s answers even when the child wants to be truthful?
5. Why should investigators avoid judging a child’s credibility based only on emotional presentation or eye contact?
6. How do structured protocols help reduce interviewer bias and drift?

7. What are the biggest risks when adults around the child discuss the allegation before a formal forensic interview occurs?
 8. How should investigators respond when a child gives a delayed, partial, or changing disclosure?
 9. Why is full recording especially important in child forensic interviews?
 10. If you were writing agency policy, what three requirements would you make mandatory for child forensic interviews first, and why?
-

Additional Resources

This resource collection was compiled by the Children’s Safety Center of Washington County in Springdale, AR. It is designed to help readers explore trusted books, articles, and websites related to child safety, abuse prevention, trauma, mental health, consent, and family support. The sources are grouped by audience and purpose so readers can quickly find materials that fit the needs of children, teens, parents, caregivers, educators, and practitioners. Some items are books listed through the website’s resource page, while others are direct articles or websites that offer practical guidance, prevention education, or support after abuse or trauma.

Table 7.3 Recommended Child Safety, Abuse Prevention, and Family Support Resources

Source	Description	Website
For Kids		
<i>I Said NO! A Kid-to-Kid Guide to Keeping Private Parts Private</i>	A child-friendly body-safety book that teaches children about private parts, body boundaries, warning signs, and how to tell a trusted adult when something feels wrong.	https://www.childrensafetycenter.org/books-articles/
<i>It's My Body</i>	A prevention-focused book that helps children understand body ownership, unsafe touch, and how to speak up when something feels uncomfortable or wrong.	https://www.childrensafetycenter.org/books-articles/
<i>Love & Limits</i>	A family-guidance resource that helps adults build healthy boundaries, clear expectations, and stronger communication with children.	https://www.childrensafetycenter.org/books-articles/
<i>Amazing You! Getting Smart About Your Private Parts</i>	An age-appropriate book that introduces children to body parts, privacy, and basic sexual development in a clear and honest way.	https://www.childrensafetycenter.org/books-articles/
<i>Telling Isn't Tattling</i>	A book that teaches children the difference between tattling and telling an adult about something unsafe or harmful.	https://www.childrensafetycenter.org/books-articles/
<i>The Trouble with Secrets</i>	A child safety book that helps children understand the difference between safe secrets and unsafe secrets that should be shared with a trusted adult.	https://www.childrensafetycenter.org/books-articles/

Source	Description	Website
<i>It Happens to Boys Too</i>	A resource that helps boys understand that sexual abuse can happen to them too and that they deserve support and protection.	https://www.childrensafetycenter.org/books-articles/
<i>Your Body Belongs to You</i>	A simple body-safety book that teaches children about boundaries, consent, and the idea that they have control over their own body.	https://www.childrensafetycenter.org/books-articles/
<i>Who Am I? Where Did I Come From?</i>	An early sex-education book that explains reproduction and body development in a child-friendly way.	https://www.childrensafetycenter.org/books-articles/
For Teens		
<i>It Happened to Me: A Teen's Guide to Sexual Abuse</i>	A teen-centered resource that helps adolescents understand abuse, disclosure, and recovery in clear language.	https://www.childrensafetycenter.org/books-articles/
<i>It's Perfectly Normal: Changing Bodies, Growing Up, Sex, and Sexual Health</i>	A broad sexual-health book for older children and teens covering puberty, bodies, relationships, reproduction, and safety.	https://www.childrensafetycenter.org/books-articles/
<i>How Long Does It Hurt? A Guide to Recovering from Incest and Sexual Abuse for Teenagers, Their Friends, and Their Families</i>	A recovery guide for teens and supporters that focuses on healing, support, and understanding the impact of abuse.	https://www.childrensafetycenter.org/books-articles/
<i>Unmasking Sexual Con Games</i>	A teen-focused resource about manipulation, coercion, grooming, and unhealthy relationship tactics.	https://www.childrensafetycenter.org/books-articles/

Source	Description	Website
How to Respond if Someone Is Pressuring You	A practical article that explains how to handle sexual pressure, coercion, and unsafe situations.	https://www.rainn.org/articles/how-respond-if-someone-pressuring-you
What Consent Looks Like	An article explaining consent as clear, voluntary, and ongoing agreement, with examples relevant to teens and young adults.	https://www.rainn.org/articles/what-is-consent
Teen Dating Violence	A CDC resource that explains what teen dating violence is, how it affects young people, and why prevention matters.	https://www.cdc.gov/intimate-partner-violence/about/about-teen-dating-violence.html
For Parents		
<i>The Sex-Wise Parent</i>	A parent resource focused on helping adults talk with children and teens about sexuality, safety, boundaries, and abuse prevention.	https://www.childrenssafetycenter.org/books-articles/
<i>Children Changed by Trauma: A Healing Guide</i>	A guide for adults supporting children after trauma, with an emphasis on healing, behavior, and family understanding.	https://www.childrenssafetycenter.org/books-articles/
<i>Children and Trauma: A Guide for Parents</i>	A practical guide that explains how trauma may affect children's emotions, behavior, and daily functioning.	https://www.childrenssafetycenter.org/books-articles/
<i>Helping Your Child Recover from Sexual Abuse</i>	A parent guide focused on what adults can do after a child discloses sexual abuse and how to support recovery.	https://www.childrenssafetycenter.org/books-articles/
<i>Caring for Sexually Abused Children</i>	A support resource for adults seeking practical information on responding to and caring for children after sexual abuse.	https://www.childrenssafetycenter.org/books-articles/

Source	Description	Website
<i>When Your Child Has Been Molested</i>	A resource for parents facing the emotional and practical challenges that follow a child sexual abuse disclosure.	https://www.childrenssafetycenter.org/books-articles/
<i>What Only a Mother Can Tell You About Child Sexual Abuse</i>	A parent-focused book meant to support conversations about sexual abuse, protection, and early response.	https://www.childrenssafetycenter.org/books-articles/
Articles		
Never Force a Child to Hug People	An article about body autonomy that explains why children should not be forced into physical affection they do not want.	https://everydayfeminism.com/2015/06/never-force-child-hug/
10 Ways to Talk to Your Kids About Sexual Abuse	A practical prevention article with strategies for starting and continuing age-appropriate safety conversations.	https://everydayfeminism.com/2014/10/talk-kids-sexual-abuse/
10 Myths About Child Sexual Abuse	An article that challenges common misunderstandings about child sexual abuse and why those myths are harmful.	https://www.parenting.com/child/child-sexual-abuse-10-myths/
What to Do (and Not Do) When Children Are Anxious	A Child Mind Institute article explaining how adults can support anxious children without making the anxiety worse.	https://childmind.org/article/what-to-do-and-not-do-when-children-are-anxious/
Helping Kids with Anxiety: Strategies to Help Anxious Children	An article offering practical strategies for understanding and responding to anxiety in children.	https://www.psycom.net/anxiety/helping-kids-with-anxiety
My Child Was Diagnosed with Depression....Now What?	A parent guide to understanding childhood depression, next steps, and support options.	https://www.psycom.net/depression/children-depression

Source	Description	Website
Help for Parents of Children Who Have Been Sexually Abused by Family Members	A RAINN resource focused on one of the most difficult disclosure settings: abuse within the family.	https://www.rainn.org/articles/help-parents-children-who-have-been-sexually-abused-family-members
Tips for Talking with Survivors of Sexual Assault	A guide for supporters on how to respond in calm, validating, and nonjudgmental ways after disclosure.	https://rainn.org/articles/tips-talking-survivors-sexual-assault
Effects of Sexual Violence	An overview of the emotional, physical, psychological, and social effects of sexual violence.	https://www.rainn.org/effects-sexual-violence
How Can Therapy Help?	A resource that explains how therapy can support survivors through coping, recovery, and healing.	https://rainn.org/articles/how-can-therapy-help
Is My Teen Depressed?	A guide that helps adults recognize signs that a teen may be struggling with depression.	https://www.helpguide.org/mental-health/parenting-and-child-family-life/parenting-a-teen-with-depression
Recognizing and Responding to Abused Children/Teens	A practical article on noticing warning signs of abuse and responding in a supportive and protective way.	https://familysafetyandhealing.org/get-help/recognizing-and-responding-to-abused-childrenteens/
Websites		
Sex-Wise Parent	A parent education website focused on conversations about sexuality, privacy, consent, pornography, and abuse prevention.	https://www.sexwiseparent.com
National Child Traumatic Stress Network	A national resource hub offering trauma-informed information, toolkits, and support materials for children and families.	https://www.nctsnet.org

Source	Description	Website
Stop It Now!	A prevention-focused website that helps adults act early when they are concerned about child sexual abuse risk or boundary violations.	https://www.stopitnow.org
A Mighty Girl	A large educational resource site featuring books, media, toys, and materials that support confidence, learning, and empowerment.	https://www.amightygirl.com
The Mama Bear Effect	A body-safety and abuse-prevention website with tools to help adults teach consent, boundaries, and protective communication.	https://www.themamabeareffect.org

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This chapter was developed from publicly available research reports and guidance documents. It is intended as a teaching resource and does not constitute legal advice or official policy. Readers should consult local laws and agency policies for specific guidance.

CHAPTER 8: EXPERT TESTIMONY IN INTERVIEWS, INTERROGATIONS, AND EYEWITNESS EVIDENCE

Dr. Michael McHenry

Chapter 8: Expert Testimony in Interviews, Interrogations, and Eyewitness Evidence

Learning Objectives

By the end of this chapter, students should be able to:

- Explain the purpose of expert testimony and describe the legal standards courts use to evaluate whether expert evidence should be admitted.
- Assess how experts can help courts understand eyewitness memory, false confessions, interviewing practices, and related behavioral science.
- Evaluate the strengths, limits, and ethical risks of expert testimony in criminal cases involving interviews, interrogations, and eyewitness evidence.

Chapter Overview

Criminal cases often raise questions that seem simple, but become more complex when science is involved. For example, can a confident eyewitness be wrong? Could an innocent person confess? Does nervous behavior mean someone is lying? How should we judge a child's interview if the questions were leading? These may seem straightforward, yet research shows the truth is not always clear. Answers involve psychology, memory,

language, stress, and decision-making, fields where most jurors and many judges lack training. (Sheehan, 2011, pp. 651-693) Courts sometimes call expert witnesses to clarify research findings and uncertainties (Cutler & Kovera, 2011; Kovera & Levett, 2015).

This chapter addresses expert testimony in interviews, interrogations, eyewitness evidence, and related behavioral science. It explains what expert witnesses do and how courts select which expert evidence to allow, before examining why certain testimony is accepted while other evidence is limited or excluded. Ultimately, experts help courts understand scientific issues outside common experience, but they do not replace judges or juries as decision-makers (*Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 1993; *Kumho Tire Co. v. Carmichael*, 1999; *State v. Cauthron*, 1993).

This topic is important because trials often depend on common assumptions. Jurors may believe they understand memory or lying from daily life, or think only guilty people confess. Yet everyday experience can mislead. Elizabeth Loftus's research shows that memories change when exposed to misleading information. Saul Kassin's work finds that innocent people sometimes confess under pressure during interrogation, defying common beliefs. Research on lie detection shows people are barely better than chance at spotting lies through behavior. Science consistently shows human judgment is less reliable than we think. Expert testimony helps courts check their assumptions against evidence.

For investigators, this topic matters because the quality of their work affects whether expert testimony is needed, whether it is convincing, and whether it can be challenged. If a lineup or interview is poorly documented or suggestive, it can undermine expert testimony. For instance, if officers do not record which photos were shown in a lineup, important information may be missing when reviewed later. An expert might then argue that missing documentation undermines the identification's trustworthiness, leaving the court to decide whether to admit the evidence. Small mistakes can spark big debates about the reliability of evidence (Kovera et al., 2018). Careful investigation clarifies facts and prevents confusion at trial.

8.1 What Expert Testimony Is, and Why Courts Use It

Expert testimony comes from witnesses with specialized knowledge, skill, training, education, or experience that helps the judge or jury understand evidence or decide facts. In criminal cases, experts explain subjects such as DNA, fingerprints, child development, trauma, eyewitness memory, interrogation risks, or suggestive procedures. The point is not that the expert is smarter, but that they know something beyond ordinary experience that may help the fact finder (Federal Rule of Evidence 702; ER 702; Neal, Martire, & Epstein, 2020). Expert testimony is not about status. Courtrooms are not places to show off. Experts explain topics beyond common knowledge. Their job is to guide the court like an educator, not just to testify.

Slow Down and Think:

A juror says, “I do not need an expert to tell me whether a witness seems believable. I can tell for myself.” What parts of witness credibility might still be outside everyday experience? When can common sense become a weak guide rather than a strong one?

Expert testimony is important in psychology-law cases because public views are often inaccurate (Kabzińska & Dukala, 2025, pp. 101-124). Jurors may believe memory works like a recording or that confidence means accuracy. They may think only guilty people confess or that body language reveals lies. Research shows these beliefs are often wrong (Kassin et al., 2010; Loftus, 2005; Wixted & Wells, 2017). In these situations, experts clarify the scientific basis of the issue. This does not mean jurors lack wisdom; it means these topics often defy expectations. Real memory science differs from how memory feels. Research on lying doesn’t match TV portrayals. Studies show innocence doesn’t always prevent confessions. Every day, intuition can mislead courts (Cutler, 2009).

Expert testimony should not tell the jury what verdict to reach.

Experts explain research, methods, and limits so jurors can decide. Strong experts educate, not shortcut guilt or innocence (Cutler & Kovera, 2011; Kovera & Levett, 2015). Courts use experts because common sense is sometimes misleading. For example, jurors might trust confident witnesses, though eyewitness confidence is more complex (Brewer & Wells, 2006; Wixted & Wells, 2017). Think of expert testimony as a bridge connecting science with the courtroom. The expert joins both but does not exaggerate science’s limits.

Watch Your Step

General Public: “An expert witness is just someone the side hired to sound convincing.”

Expert: Some experts are stronger than others, but the proper role of an expert is to help the court understand specialized knowledge, not to act like a paid cheerleader for one side.

Pro Tip

When you hear that a case may involve expert testimony, ask what specific knowledge gap the expert is supposed to fill. A useful expert should address something the average fact finder is unlikely to understand accurately without help. The National Academies and the American Psychology-Law Society both support careful use of expert evidence when scientific issues are likely to be misunderstood. Good expert testimony answers a real need.

8.2 How Courts Decide Whether an Expert May Testify

Courts do not admit expert testimony automatically. Judges serve as gatekeepers, deciding if proposed testimony is relevant, reliable, and helpful. In federal court, this role comes from *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993), *General Electric Co. v. Joiner* (1997), and *Kumho Tire Co. v. Carmichael* (1999). Judges must determine if expert methods are reliable and properly applied, not just accept any “expert” label. For instance, Daubert factors include considering the scientific method’s error rate. If fingerprint analysis has a known error rate, judges weigh whether it is reliable enough for court (*State v. Moon*, 1985). These examples turn the Daubert checklist into practical questions about the strengths and limits of evidence. When a party wants expert testimony, the judge follows this process:

1. The party presents the expert’s qualifications and testimony.
 2. The judge examines whether the expert’s knowledge is relevant and helpful for understanding the evidence.
 3. The court checks whether the expert’s methods are grounded in science and properly applied to the facts.
 4. The judge considers Daubert factors: testability, peer review, error rate, and acceptance in the field.
- Based on these factors, the judge decides whether to admit all, part, or none of the expert’s testimony.

This screening role matters because expert testimony can be very persuasive. Once a witness is designated an expert, jurors may be tempted to assume that the testimony is backed by strong scientific evidence. But that is not always true. Some fields are well developed and strongly supported by research. Others are more disputed, weaker, or poorly connected to the facts of the case. Gatekeeping is supposed to protect the court from weak

Slow Down and Think: A proposed expert has many years of law enforcement experience but cannot explain

whether the method being described has been tested or validated. Is experience alone enough? What should the judge want to know before allowing the testimony?

science dressed up as strong science. (Faigman et al., 2016) Where do experts most often overpromise, and how can courts and juries guard against this risk? Later sections will examine these common pitfalls, helping you recognize the boundaries between research and overreach. Under Daubert, courts may consider factors such as whether a method can be tested, whether it has been peer reviewed, its known or potential error rate, whether standards control its operation, and whether it is generally accepted in the relevant field (*Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 1993). *Kumho Tire* made clear that

gatekeeping is not limited to laboratory science. It also applies to technical and other specialized knowledge (*Kumho Tire Co. v. Carmichael*, 1999). These factors matter because they remind courts to ask tough questions. Can this idea be tested? Has it been studied carefully? How often does it make mistakes? Are there real standards, or is it just personal opinion? These questions help separate solid science from unsupported claims.

Washington follows a somewhat different approach. Washington courts still use the Frye test for novel scientific evidence, asking whether the underlying scientific principle or methodology has gained general acceptance in the relevant scientific community, while ER 702 separately asks whether the testimony will help the trier of fact (ER 702; *Frye v. United States*, 1923; *State v. Cauthron*, 1993). In practice, that means Washington courts may ask both whether the science is accepted and whether the testimony will actually assist the jury. These standards matter because behavioral science evidence can be both helpful and controversial (Faust et al., 2010). Some topics, such as eyewitness memory research, have a long and substantial literature. Other topics, such as certain deception technologies, may be far more contested. Gatekeeping is intended to slow the court down before a jury hears a scientific claim that may seem stronger than it really is (National Research Council, 2009; Neal et al., 2020).

Simply put, the judge's job is to ask: Is this real science? Is it being used correctly? Will it actually help? If not, the testimony might be limited or excluded. This process is not perfect, but it helps prevent courts from mistaking impressive words for reliable knowledge.

Watch Your Step

General Public: “If an expert has impressive credentials, the testimony will come in.”

Expert: Credentials matter, but they are not enough by themselves. Courts also examine whether the expert’s methods are reliable and whether the testimony will genuinely help the fact finder.

Pro Tip

Do not confuse experience with validation. Experience can help an expert explain practice, but scientific opinions still need a dependable basis. Guidance reflected in the National Academies and modern expert-evidence case law supports asking both “What does the expert know?” and “How do we know that knowledge is reliable?” Those are different questions, and both matter.

8.3 Expert Testimony on Eyewitness Memory and Identification

One of the most common behavioral science topics for expert testimony is eyewitness memory. Courts have long struggled with whether jurors need expert help to evaluate eyewitness identifications. For many years, some courts were skeptical and believed jurors could use common sense to judge memory accuracy. Over time, research and wrongful-conviction cases led many courts to take eyewitness science more seriously (Cutler & Penrod, 1995; Garrett, 2011; Wells et al., 2020).

Experts in this area may explain that memory is reconstructive, not a video recording. They may describe how stress, weapon focus, lighting, distance, delay, suggestive lineup procedures, feedback, and cross-race viewing conditions can affect identification accuracy (Loftus, 1979; Meissner & Brigham, 2001; Wells et al., 1998). They may also explain that witness confidence is most informative when measured immediately

Slow Down and Think: *A witness identified a stranger after a brief nighttime*

encounter involving a weapon. The witness now appears highly confident at trial. What parts of that situation would an eyewitness expert likely explain to a jury? Why might those points matter even if the witness seems honest?

and under clean testing conditions, not after reinforcement and repeated exposure (Wixted & Wells, 2017).

This kind of testimony can help jurors understand why a sincere and confident witness may still be mistaken. It can also help courts understand why lineup procedures matter. An expert does not usually say, “This witness is wrong.” Instead, the expert explains the factors that research has shown to be associated with stronger or weaker identification conditions (Cutler & Kovera, 2011; Kovera & Levett, 2015). Courts may still limit such testimony if the judge concludes that the information is already widely understood, that the proposed expert is overstating the science, or that the testimony would not fit the actual facts of the case. Fit matters. A good expert

should connect the science to the issues present in the case without going beyond what the research supports (Daubert v. Merrell Dow Pharmaceuticals, Inc., 1993; Neal et al., 2020).

Watch Your Step

General Public: “Eyewitness experts just tell jurors not to trust witnesses.”

Expert: A proper eyewitness expert does not tell jurors to reject all eyewitnesses. The expert explains when memory tends to be stronger, when it tends to be weaker, and why certain procedures can distort identification.

Pro Tip

When evaluating an eyewitness expert, ask whether the testimony is tied to well-established findings such as stress, viewing conditions, lineup fairness, feedback, and confidence timing. The

American Psychology-Law Society and National Academies both emphasize that eyewitness science is strongest when it is specific and evidence-based rather than dramatic and broad. Precision makes expert testimony more useful.

8.4 Expert Testimony on Interrogations, Confessions, and Interviewing Practices

One of the most common behavioral science topics for expert testimony is eyewitness memory. Courts have long struggled with whether jurors need expert help to evaluate eyewitness identifications. For many years, some courts were skeptical and believed jurors could use common sense to judge memory accuracy. Over time, research and wrongful conviction cases pushed many courts to take eyewitness science more seriously (Cutler & Penrod, 1995; Garrett, 2011; Wells et al., 2020).

There is a reason for this change. Eyewitness testimony often feels powerful and personal. When a witness says, “I saw him,” it can have a big impact. Consider this: late at night, a robbery happens outside a poorly lit store. The witness, startled and stressed, only gets a quick look at the suspect before they run away. Later, the witness feels confident about their memory and identifies someone from a lineup. But science shows that memory is not as simple as it seems. Even honest witnesses can make mistakes, especially when viewing conditions are poor or later procedures are suggestive (Guttman, 2024). In that memory is reconstructive, not a video recording. They may describe how stress, weapon focus, lighting, distance, delay, suggestive lineup procedures, feedback, and cross-race viewing conditions can affect identification accuracy (Loftus, 1979; Meissner & Brigham, 2001; Wells et al., 1998). They may also explain that witness confidence is most informative when measured immediately and under clean testing conditions, not after reinforcement and repeated exposure (Wixted & Wells, 2017). This kind of testimony can help jurors understand why a sincere and confident witness may still be mistaken. It can also help courts understand why lineup procedures matter. An expert does not usually say, “This witness is wrong.” Instead, the expert explains the factors that research has shown to be associated with stronger or weaker identification conditions (Cutler & Kovera, 2011; Kovera & Levett, 2015).

That distinction is important. Expert testimony in this area is not supposed to decide the case, for this difference matters. Expert testimony about eyewitnesses is not meant to decide the case for the jury. Instead, it should give jurors better ways to think about the evidence. A good expert helps jurors ask questions like: How long did the witness see the person? Was the event stressful? Was there a weapon? Did the witness get

feedback? Did the lineup process help or hurt the memory? A good expert should connect the science to the issues present in the case without going beyond what the research supports (*Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 1993; Neal et al., 2020).

In other words, the expert should shine light on the problem, not take over the case. In short, the expert should help clarify the problem, not take control of the case. The best eyewitness experts explain why memory can fail, what research says about the case's conditions, and why the court should be careful with assumptions. Experts also testify about interrogation methods, false confession risk factors, and interviewing practices. This area has grown as research and exoneration cases have shown that innocent people can and do confess under some circumstances. One well-known example is the Central Park Five case, in which five teenagers were wrongfully convicted in New York City after giving confessions that were later shown to be false. Their confessions were influenced by factors such as prolonged, pressured questioning, youth, and a lack of understanding of the investigative process (Burns, 2012). Cases like this show how real investigations can involve risk factors that increase the likelihood of unreliable admissions.

Slow Down and Think: A teenager confessed after many hours of questioning and later retracted the statement. A juror says, "He admitted it, so that tells me everything I need to know." What could an expert add to that discussion? Why might the interview conditions matter as much as the words on the page?

However, not all confessions are unreliable. Many criminal cases involve genuine, corroborated confessions that are supported by independent evidence. For example, in the Oklahoma City bombing case, Timothy McVeigh gave a confession that was strongly corroborated by physical evidence, eyewitness testimony, and other investigative findings (Duggan & Thomas, 1995). In such situations, the confession adds weight to the overall case by aligning with and corroborating the available facts. Presenting both ends of this continuum (false confessions and true, corroborated confessions) reinforces the need for careful, contextual analysis of each case rather than blanket distrust or acceptance of confession evidence. (Bernhard & Miller, 2018)

Experts may explain how factors such as youth, cognitive limitations, sleep deprivation, prolonged questioning, false evidence ploys, minimization, and investigator bias can increase the risk of unreliable admissions (Kassin et al., 2010; Leo, 2008; Redlich & Kassin, 2009).

This topic often surprises people because confessions seem so powerful. Many people assume that a confession is the strongest evidence possible. It feels like direct proof (DiFava et al., 2024). But research shows that this topic often surprises people because confessions seem very convincing. Many assume a confession is the strongest kind of evidence and feels like direct proof. But research shows that confessions, like other evidence,

need to be looked at in context. Some are true and reliable, while others are influenced, pressured, or false. Expert testimony helps courts see the difference. I would never confess. Behavioral science experts can explain why that belief is incomplete and why a confession should be examined in light of the interview conditions and the suspect's vulnerabilities (Kassin, 2005; Kassin et al., 2010).

Watch Your Step

General Public: “If there is a confession, an expert is unnecessary because the case is obvious.”

Expert: Confessions can be powerful, but that is exactly why expert testimony may matter. Jurors often need help understanding how interrogation pressure and vulnerability can shape statements.

Pro Tip

When a case involves a confession, focus on process as much as product. Experts are most helpful when they explain the interview conditions, the known risk factors, and the difference between a reliable statement and a pressured one. Research summarized by the National Academies and major confession scholars supports this process-centered approach. The “how” often matters as much as the what.

8.5 Limits, Overstatement, and Ethical Problems in Expert Testimony

Expert testimony can help a court, but it can also mislead a court if it is overstated (Table 8.1). One major risk is the “aura of science” problem. Jurors may assign too much weight to an expert’s opinion simply because it sounds technical, uses charts, or comes from a highly credentialed witness. This danger is especially

serious when the underlying science is mixed, limited, or not closely tied to the facts of the case (Faigman et al., 2014; National Research Council, 2009). Another risk is that experts may go too far and comment directly or indirectly on the credibility of a witness, victim, or defendant. Courts are often cautious about this because credibility is usually for the jury to decide. A behavioral science expert may explain memory principles or confession risk factors, but saying, “This witness is telling the truth,” or “This confession is definitely false,” generally crosses into dangerous territory (Neal et al., 2020; State v. Kirkman, 2007). Experts may also address whether interview procedures were suggestive, coercive, or inconsistent with research-based practice. For example, an expert might explain the difference between information-gathering interviewing and highly accusatory questioning, or why contamination of confession details matters when investigators repeatedly feed facts to the suspect (Perillo & Kassin, 2011; Meissner et al., 2014).

This kind of testimony can help the court ask better questions about the statement itself. Did the suspect say things only the true offender would know, or was this type of testimony helpful in asking better questions about the confession? Did the suspect mention details only the real offender would know, or did investigators provide those details? Was the questioning calm and fair, or was it long and very pressuring? Did the suspect have any known vulnerabilities? Was the confession backed up by other evidence, or did the case rely too much on the confession alone? Is it clear that a specific defendant is innocent? But courts are often more receptive when the expert limits the testimony to general principles and known risk factors, leaving the final judgment to the jury (Kassin et al., 2010; Kovera & Levett, 2015).

Slow Down and Think: *An expert says, “The science proves this eyewitness could not possibly be right.” What is problematic about that statement? How could the expert make the point in a more scientifically careful way?*

The best testimony in this area does not say, “Believe me instead of the confession.” It says, “Here is what science tells us about how confessions can become unreliable, and the best expert testimony in this area does not say, ‘Trust me instead of the confession.’” Instead, it says, “Here is what science shows about how confessions can become unreliable, and here are the things you should look at before deciding how much to trust this statement.” Risk is the “aura of science” problem. Jurors may assign too much weight to an expert’s opinion simply because it sounds technical, uses charts, or comes from a highly credentialed witness. According to the Innocence Project, false or misleading forensic evidence contributed to about 60% of wrongful convictions later overturned by DNA evidence

(Garrett, 2009). A statistic like this puts the abstract danger into perspective and shows how real the risks can be when scientific claims are overstated. This danger is especially serious when the underlying science is mixed, limited, or not closely tied to the facts of the case (Faigman et al., 2014; National Research Council, 2009).

This is one of the biggest dangers in expert testimony. People often trust scientific language, and sometimes

they trust it too much. If a witness sounds confident and uses difficult terms, jurors may assume the science is settled even when it is not. That is why expert testimony must be handled carefully. The problem is not just bad science. The problem is also overpersuasion.

Another risk is that experts may go too far and comment directly or indirectly on the credibility of a witness, victim, or defendant. Courts are often cautious about this because credibility is usually for the jury to decide. A behavioral science expert may explain memory principles or confession risk factors, but saying, “This witness is telling the truth,” or “This confession is definitely false,” generally crosses into dangerous territory (Neal et al., 2020; *State v. Kirkman*, 2007).

Experts must also stay within the limits of the research. For example, an expert on eyewitness memory should not turn general findings into a claim of certainty about a particular identification unless the field actually supports such a conclusion. Likewise, an expert on interrogations should not present all confessions as suspect or imply that every vulnerable suspect will falsely confess. Scientific humility is part of ethical testimony (Kovera & Levett, 2015; Neal et al., 2020). Bias is another issue. Experts are usually hired by one side, and even careful experts can start to use language that favors their side (Vreddevelde et al., 2024). Courts, lawyers, and investigators should check if the expert fairly presents opposing findings, admits limits, and avoids acting like an advocate while claiming to be scientific (Faigman et al., 2014; Neal et al., 2020). Modeling this type of testimony helps reinforce the expert’s role as an educator rather than an advocate and provides practitioners with clear language to use in real courtrooms. A good expert should sound careful, not certain about everything. This does not mean they are weak or unsure, but that they are honest about what science can and cannot say. The most trustworthy experts explain both the strengths and limits of the research and do not make claims beyond what the evidence supports.

Watch Your Step

Table 8.1 Expert Testimony Language: Overstatement Versus Ethical Humility

Example	Overstated or Problematic Response	Preferred, Ethically Careful Response	Why the Preferred Response Is Better
Eyewitness stress	Attorney: “Is it possible that some eyewitnesses can remember accurately, even under stressful conditions?” Expert: “No. Stress makes eyewitness memory unreliable.”	Attorney: “Is it possible that some eyewitnesses can remember accurately, even under stressful conditions?” Expert: “Yes, that is possible. While research shows that stress can impair memory in many situations, it does not mean that every witness will be mistaken. Each case has to be evaluated on its own facts.”	The preferred response stays closer to the research. It explains the general pattern without claiming that stress always destroys memory. It helps the jury understand the science while leaving room for case-specific evaluation.
False confessions	Attorney: “Can you say for certain that the confession in this case is false?” Expert: “Yes. This is clearly a false confession.”	Attorney: “Can you say for certain that the confession in this case is false?” Expert: “No, I cannot. I can explain the risk factors and what research has found about false confessions in general, but determining the truthfulness of a specific statement is a decision for the court and jury.”	The preferred response respects the limits of expert testimony. It explains what science can say about risk without taking over the jury’s job of deciding the facts.
Eyewitness confidence	Attorney: “If a witness sounds very confident, does that mean the identification is accurate?” Expert: “Yes. Confidence usually means the witness is right.”	Attorney: “If a witness sounds very confident, does that mean the identification is accurate?” Expert: “Not by itself. Confidence can be informative in some circumstances, especially when measured early and under fair procedures, but confidence can also be shaped by feedback, repetition, and later exposure.”	The preferred response is better because it avoids a simple but misleading answer. It teaches the jury that confidence must be understood in context, not treated as automatic proof.
Child suggestibility	Attorney: “Are children easy to manipulate in interviews?” Expert: “Yes. Children are highly suggestible, so their statements are not very reliable.”	Attorney: “Are children easy to manipulate in interviews?” Expert: “Children can be affected by suggestion, especially when questioning is leading or repetitive, but that does not mean their statements are inherently unreliable. The quality of the interview process matters a great deal.”	The preferred response avoids unfairly dismissing all child reports. It explains that the real issue is not simply the child, but the interviewing method and context.

Example	Overstated or Problematic Response	Preferred, Ethically Careful Response	Why the Preferred Response Is Better
Deception cues	Attorney: “Can trained investigators tell when someone is lying by watching body language?” Expert: “Yes. Trained investigators are very good at spotting deception.”	Attorney: “Can trained investigators tell when someone is lying by watching body language?” Expert: “Research does not support strong confidence in body language alone as a reliable lie detector. Some behaviors may raise questions, but no single cue clearly proves deception.”	The preferred response is better because it reflects the limits of deception research. It avoids overstating human lie-detection skill and warns against treating body language as certainty.
Interview protocol quality	Attorney: “So this interview protocol guarantees a reliable statement, correct?” Expert: “Yes. If the protocol was used, the statement is reliable.”	Attorney: “So this interview protocol guarantees a reliable statement, correct?” Expert: “No protocol guarantees reliability. A structured, research-based protocol can reduce risks and improve interviewing quality, but the interview still has to be evaluated carefully in light of how it was actually conducted.”	The preferred response avoids turning a helpful method into a magic solution. It reminds the court that protocols reduce risk, but they do not remove all problems.
Cross-race identification	Attorney: “Are cross-race identifications always unreliable?” Expert: “Yes. Those identifications should never be trusted.”	Attorney: “Are cross-race identifications always unreliable?” Expert: “No. Research shows that cross-race identifications can involve greater risk of error, but that does not mean they are always wrong. They should be evaluated with care and in context.”	The preferred response is more accurate because it describes increased risk without turning a research trend into an absolute rule. It helps the jury think carefully instead of replacing one oversimplification with another.
Recording interrogations	Attorney: “If an interrogation was recorded, does that settle whether it was fair?” Expert: “Yes. A recording proves the process was fair.”	Attorney: “If an interrogation was recorded, does that settle whether it was fair?” Expert: “A recording is very helpful because it preserves what happened, but it does not automatically prove that the process was fair. The content, questioning methods, timing, and conditions still need to be examined.”	The preferred response is better because it values recording without overstating what recording can prove. It keeps attention on the actual process rather than the mere existence of a record.

Example	Overstated or Problematic Response	Preferred, Ethically Careful Response	Why the Preferred Response Is Better
Generalizing from research	Attorney: “Because research shows this risk factor, that means it caused the problem in this case, right?” Expert: “Yes, that is exactly what happened here.”	Attorney: “Because research shows this risk factor, that means it caused the problem in this case, right?” Expert: “Not necessarily. Research can show that certain factors are associated with increased risk, but whether they caused a particular problem in this case has to be judged in light of all the evidence.”	The preferred response separates general research findings from specific case conclusions. That distinction is crucial because science often identifies risk patterns, not automatic case-level answers.
Ultimate issue pressure	Attorney: “So, based on your expertise, the jury should reject this witness’s testimony, correct?” Expert: “Yes. The jury should not believe this witness.”	Attorney: “So, based on your expertise, the jury should reject this witness’s testimony, correct?” Expert: “My role is not to decide whether the jury should believe or reject the witness. My role is to explain the scientific factors that may affect memory and reporting so the jury can make its own decision.”	The preferred response protects the boundary between expert education and jury decision-making. It keeps the expert from commenting directly on credibility, which is usually the jury’s job.

Watch Your Step

General Public: “A stronger expert is one who sounds completely certain.”

Expert: Sometimes certainty is a warning sign. Good experts explain what the research supports, what remains uncertain, and where the limits of the field begin.

Pro Tip

Be cautious of any expert who never uses words such as “may,” “can,” “risk,” or “consistent with.” Behavioral science often deals in probabilities and conditions rather than absolute certainties. The National Center for State Courts and modern expert-evidence scholarship both support testimony that is candid about limits instead of pretending the science is stronger than it is. Honest limits increase credibility.

8.6 What Investigators, Attorneys, and Courts Should Ask About an Expert

When a case may involve expert testimony, several practical questions should be asked. First, what exactly is the expert’s field, and is that field relevant to the issue in dispute? An expert in general psychology is not automatically an expert in eyewitness identification, child suggestibility, or interrogation methods. Second, what research supports the opinion being offered? Courts and lawyers should look for peer-reviewed research, recognized methods, and a clear explanation of how the opinion connects to the facts of the case (*Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 1993; Neal et al., 2020). These first two questions are simple but important. What does this person really know, and what is their knowledge based on? A witness might have impressive credentials but still not be the right expert for the specific issue. The court needs expertise that matches the problem, not just general expertise. Third, does the proposed testimony fit the real issues in the case? A long lesson on memory science may not help if the case does not actually involve an identification problem. A detailed discussion of false confession research may have limited value if the statement at issue was spontaneous and not the product of interrogation. Relevance is not just about whether the topic is interesting. It is about whether the testimony helps answer a disputed issue in this case (Kovera & Levett, 2015). Fourth, how will the expert avoid stepping on the jury’s role? The most persuasive experts usually explain principles, risk factors, and methods while leaving the final factual conclusions to the jury. Fifth, is the testimony balanced? A strong expert can explain both the value and the limits of the science (Faigman et al., 2014; Neal et al., 2020).

For investigators, these questions have an important practical effect. Good reports, recordings, and documentation make it easier for courts to evaluate whether expert testimony is actually needed and whether it is grounded in the facts. Poor documentation often creates gaps that experts or lawyers later

Slow Down and Think: A

defense attorney offers an expert on false confessions, but the case file contains no full recording of the interrogation. How might the lack of documentation affect the court's ability to evaluate the expert's fit? What could investigators have done earlier to make the issue clearer?

try to fill indirectly. Strong investigations, therefore, reduce confusion before the trial ever begins. Just as importantly, thorough recordings and clear records allow jurors to “see with their own eyes” what actually happened, making them less dependent on competing expert interpretations or memory-based reconstructions (National Research Council, 2009; Technical Working Group for Eyewitness Evidence, 1999).

In practice, these questions help courts and lawyers distinguish between useful expertise and overreach. Is the expert helping the jury think more clearly, or trying to do the thinking for them? Is the testimony based on strong evidence, or just personal confidence? Is the science presented fairly, or only in a way that helps one side? There is another lesson for investigators. Good case work makes it easier to judge expert testimony. A complete recording of an interrogation, a well-

documented lineup, or a preserved child interview gives everyone clear evidence to review. If the record is incomplete or unclear, courts have a harder time deciding what happened and how much to trust the science.

Watch Your Step

General Public: “The side with more experts usually has the stronger science.”

Expert: More experts do not necessarily mean better science. Quality, fit, and methodological strength matter much more than head count.

Pro Tip

Think about expert issues during the investigation, not just before trial. Recording interviews,

documenting lineup procedures, and preserving confidence statements can make later expert disputes much more concrete and fair. The National Institute of Justice and National Academies both support documentation because it gives courts real data to examine instead of forcing them to guess. Strong records strengthen good science.

Chapter Summary

Expert testimony plays an important role in criminal cases involving eyewitness memory, interviews, interrogations, child suggestibility, and related behavioral science. Courts use experts when specialized knowledge may help the judge or jury understand an issue that common sense alone may not address accurately. At the same time, expert evidence is screened carefully because courts must guard against unreliable methods, overstated conclusions, and testimony that intrudes on the jury's role (*Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 1993; *Kumho Tire Co. v. Carmichael*, 1999; *State v. Cauthron*, 1993).

In this area, experts are often most helpful when they explain general scientific principles and known risk factors rather than declare what outcome the jury should reach. Eyewitness experts may explain memory limits and lineup issues. Interrogation experts may explain the risk factors for false confessions and concerns about contamination. Child interview experts may explain suggestibility and protocol quality.

For investigators, the main lesson is clear: strong, well-documented investigations make expert testimony easier to judge and harder to misuse. Science can help the justice system, but only if it is presented carefully, honestly, and within its real limits. The best expert testimony does not take over the courtroom. It helps everyone think more clearly.

As a practical takeaway, always keep thorough records and approach each case with an open mind. Question your assumptions, use reliable procedures, and remember that clear documentation and critical thinking are key to fair results.

End of Chapter Activities

Case Study Analysis

State of Arkansas vs Whitney Adams (2016)

In Arkansas, former child abuse investigator Whitney Adams was charged in connection with falsified investigative records across dozens of child abuse cases while working for the Crimes Against Children Division (CACD) of the Arkansas State Police (ASP). Later reports stated that she pleaded guilty to tampering with public records and was sentenced to five years of probation and community service. News coverage described multiple examples in which she reportedly documented investigative work that had not actually been done, including claiming face-to-face interviews that did not occur and reporting case activity in matters where no one had been interviewed. Reported examples included a case involving a girl burned on a stove, a case involving a boy who said he had been sexually assaulted at age three, and a case involving a teenager who said her stepfather choked her.

For Chapter 8, this case is important because it shows that expert testimony often becomes necessary when the underlying investigative process is weak, incomplete, or unreliable. If an interview was never conducted, falsely documented, or poorly preserved, then later courts may need experts to explain why the missing or distorted process matters. In a case like this, an expert in child forensic interviewing might be asked to explain why real interview structure, neutrality, documentation, and recording are essential to evaluating a child's account. An expert might also explain why a false record makes it difficult, or even impossible, to determine whether proper interview methods were used, whether suggestive questioning occurred, whether the child's language was preserved accurately, or whether the account can be trusted in the same way as a properly documented forensic interview. In other words, the case is not only about misconduct. It is also about how bad documentation can damage the court's ability to assess evidence fairly. But once the process itself has been damaged, even the best expert may be left explaining gaps rather than clarifying strong evidence. That is the deeper lesson for Chapter 8: expert testimony can help courts understand science and procedure, but it cannot fully repair investigative work that was never honestly done in the first place.

Expert Witness Readiness Review

Write a 2- to 3-page analysis using this case as a model for how investigative failures can shape later expert testimony. In the first part, explain what kinds of expert witnesses might be called if a child abuse case contains false records, missing interviews, or unclear documentation. In the second part, describe what each expert could and could not realistically explain to the court. In the third part, identify at least five pieces

of documentation or recording evidence that should exist in a properly handled child forensic interview if investigators want later courts to evaluate the interview fairly. In the final part, explain how honest, complete investigative records can either reduce the need for expert testimony or make expert testimony more reliable and easier to assess.

Choose Your Own (Detective) Adventure

Skills Lab 1: Expert or Advocate?

Read a short mock expert report provided by your instructor. Identify every sentence that sounds educational and every sentence that sounds like advocacy. Then rewrite the advocacy language so it stays within proper expert limits.

Skills Lab 2: Gatekeeping Checklist

Create a one-page checklist for judges or attorneys to use when evaluating a proposed behavioral science expert. Include qualifications, fit to the case, scientific basis, methodological support, potential overstatement, and whether the testimony invades the jury's role.

Skills Lab 3: Eyewitness Expert Application

Using a mock robbery case, write a short summary of what an eyewitness memory expert could properly explain to the jury. Focus on viewing conditions, stress, lineup procedure, confidence timing, and feedback. Do not include any opinion about whether the witness is telling the truth.

Skills Lab 4: False Confession Review

Take a fictional interrogation scenario and identify the factors that might increase the risk of a confession that a qualified expert might discuss. Then explain what parts of the case the expert should avoid deciding for the jury.

Skills Lab 5: Investigation-to-Trial Map

Build a step-by-step chart showing how documentation during an investigation can affect later expert testimony. Include lineups, witness confidence statements, interview recording, interrogation recording, and documentation of communication or vulnerability issues.

Questions That Change How You Think

1. Why do courts sometimes need expert testimony even when jurors believe they can rely on common sense?
 2. What is the difference between an expert helping the jury and an expert trying to replace the jury?
 3. Why is eyewitness memory one of the strongest areas for behavioral science expert testimony?
 4. How can expert testimony help the court understand false confession risk without telling the jury what verdict to reach?
 5. What makes scientific humility an important part of credible expert testimony?
 6. Why are credentials alone not enough to justify expert testimony?
 7. How do Washington's Frye-based approach and the federal Daubert approach reflect different ways of thinking about reliability?
 8. What are the biggest dangers when an expert sounds more certain than the research actually allows?
 9. How can strong investigative documentation improve the fairness of later expert testimony disputes?
 10. If you were writing court policy, what limits would you place on behavioral science experts first, and why?
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This chapter was developed from publicly available research reports and guidance documents. It is intended as a teaching resource and does not constitute legal advice or official policy. Readers should consult local laws and agency policies for specific guidance.

CHAPTER 9: DECISION-MAKING IN THE COURTROOM

Dr. Michael McHenry

Chapter 9: Decision-Making in the Courtroom

Learning Objectives

By the end of this chapter, students should be able to:

- Explain how jurors and judges make decisions and why legal decision-making is shaped by both evidence and human psychology.
- Describe major influences on jury and judicial decision-making, including story building, bias, inadmissible information, race, emotion, and expert testimony.
- Evaluate how investigators can strengthen fairness and accuracy by documenting evidence clearly and reducing avoidable sources of confusion or prejudice.

Chapter Overview

Criminal investigations do not end when an arrest is made. In many ways, the case is only entering a new stage. The evidence gathered by investigators eventually passes through the hands of judges, jurors, attorneys, and courtroom procedures. At that point, the case is no longer only about what happened. It is also about how other people understand what happened. That difference matters. A case can involve strong evidence, but if the evidence is confusing, incomplete, poorly explained, or emotionally distorted, the people deciding the case may still struggle to reach the right conclusion. For investigators, this means that the choices made during every step of an investigation (from organizing reports to documenting interviews) can have real consequences in the

courtroom. Understanding how evidence will be interpreted later helps investigators make better decisions in the field and improve the chances of a fair result.

Jurors must weigh witness accounts, physical evidence, expert testimony, and legal instructions. Judges must rule on evidence, manage trials, and sometimes decide both facts and law. Both groups are expected to be fair and careful. Both groups are also human (Devine et al., 2001; Guthrie et al., 2001; Levett & Devine, 2017). That means they bring ordinary human strengths and ordinary human limits into the courtroom. They can think carefully, but they can also be influenced by emotion, first impressions, bias, and the way information is presented.

This chapter examines how juries and judges make decisions, where those decisions can go wrong, and why psychology matters in the courtroom. You will learn how jurors build stories from evidence, why judges are not immune to cognitive bias, and how race, emotion, confidence, and courtroom framing can shape outcomes. You will also see why investigative choices matter so much long before the trial begins. Strong documentation, fair procedures, and clear reports give judges and juries better evidence to work with. Weak procedures create confusion, and confusion can become injustice.

This chapter is important because courtroom decision-making is not only about rules. It is also about people trying to make sense of difficult facts. Trials are often full of uncertainty. A juror may be hearing about an event that happened months or years earlier. A judge may be deciding whether certain evidence should be admitted before a jury ever sees it. In both situations, how the case was built matters. A good investigation gives decision-makers a stronger foundation. Bad investigation forces them to work through the fog.

9.1 How Jurors Make Sense of a Case

Picture twelve jurors sitting in a courtroom as closing arguments come to an end. Their notebooks hold timelines, witness names, and puzzling details. When someone asks, “So what do we think really happened?” the group moves from listing facts to building a story about who did what, why, and how everything connects.

Jurors usually do not decide cases by adding up separate pieces of evidence. Instead, research shows they often create a story about what happened. Then, they judge if that story matches the evidence, the law, and what seems believable. This is called the story model of jury decision-making (Pennington & Hastie, 1992, 1993). In short, jurors turn scattered facts into a clear story.

Slow Down and Think: *Two cases have the same physical evidence, but one case file has a clear timeline and the other is disorganized and confusing. Which case is more likely to feel persuasive to jurors? Why does case organization matter even when the underlying evidence is similar?*

This process is familiar because people do it every day. When hearing a set of facts, people naturally try to connect them. They ask, “What happened first?” to figure out the order of events. They wonder, “What caused what came next?” to understand cause and effect. They consider “Who was most involved?” when judging responsibility. They ask, “What motive fits?” to decide if actions were intentional or accidental. In court, jurors do the same thing: they build a story that makes sense of the evidence.

This process can be useful. Trials often involve many facts, multiple witnesses, and competing interpretations. Story building helps jurors organize information. It lets them see connections, fill gaps, and make sense of complex testimony. Without some kind of structure, the evidence would feel like a pile of disconnected parts (Levett, 2023). But story building

also carries dangers. A coherent story can bring order, but it can also create an illusion of truth. This happens even when key facts are missing or when links are based on weak assumptions. As story building helps jurors fit facts together, it can also lead them to overlook facts that do not fit. Jurors may give more weight to evidence that supports their favored narrative and less to evidence that challenges it (Levett & Devine, 2017).

First impressions matter. Early evidence can shape how jurors view later facts. A credible witness may make minor contradictions seem less significant. A suspicious defendant may make weak evidence look strong. The first story shapes later judgments.

For investigators, it helps to pause and ask: Which decisions shape those crucial first impressions most? Key factors include the order in which evidence is presented, the wording of investigative summaries, how witness statements are highlighted, the selection or order of photos in identification procedures, and even the labels used in reports or exhibits. To quickly self-audit, consider whether your file might unintentionally frame someone or something as more credible or suspicious right from the start. Paying attention to these details gives you greater leverage to support fairness and accurate fact-finding. Jurors respond to how evidence is shown. Organized cases seem stronger than disorganized ones. Attorneys know this. That’s why opening statements, witness order, and visuals matter. The law says to focus on evidence, but presentation shapes understanding (Devine et al., 2001; Pennington & Hastie, 1993).

This matters for investigators because unclear reports and missing context make it harder for jurors to evaluate what happened. Poorly documented timelines can also hinder understanding. If the evidence arrives as fragments, jurors may fill gaps with assumptions. That is dangerous because once assumptions become part of the juror’s story, they may feel like facts. Good investigators help by building organized, clear, and evidence-

based files. Key practices include using chronological timelines to show the sequence of events. Also, provide verbatim quotes from important witnesses and ensure all supporting documents are labeled and attached. Using this checklist (Figure 9.1) while writing helps make good habits automatic. It also lowers the chance of missing important steps when working quickly. These practices help decision-makers stay on top of the case, reduce confusion, and support fairer outcomes.

Investigator

CASE-FILING CHECKLIST

Use this *yes/no* checklist while preparing case files:

- Clear, chronological timeline of key events?
- Verbatim quotes from key witnesses included?
- All documents, photos, or exhibits clearly labeled & attached?
- Facts presented without assumptions?

✓ YES

✗ NO

✓ YES

✗ NO

✓ YES

✗ NO

✓ YES

✗ NO



Accurate, Clear, Thorough!

Figure 9.1: Investigator Case-Filing Checklist | Image by M. McHenry

Watch Your Step

General Public: “Jurors just compare the facts and pick the stronger side.”

Expert: Jurors do compare evidence, but they also build meaning from it. The side with the more coherent story may have an advantage even when the evidence is not clearly stronger.

Pro Tip

Build case files as if a future jury will need to understand them without guessing. Clear timelines, precise reports, and careful documentation reduce the chance that jurors will fill gaps with assumptions. Research on jury decision-making and guidance reflected in National Center for State Courts resources both support clarity as a fairness issue, not just a convenience. Good organization helps the truth compete better in court.

9.2 What Shapes Jury Decision-Making Beyond the Evidence

Jurors are asked to decide cases based on evidence and legal instructions, but many other influences can shape how that evidence is interpreted. These non-evidentiary influences tend to fall into three main categories: media exposure, emotional responses, and prior beliefs. For example, pretrial publicity or news coverage can create a narrative before a trial even begins, shaping expectations and focus. Emotional factors, such as strong testimony or a tense courtroom atmosphere, can color how facts are received. Finally, jurors bring their prior

beliefs about crime or police work into the courtroom, and these personal views also influence judgment (Devine et al., 2001; Sommers & Douglass, 2007). These influences do not always override the evidence, but they can change how it feels and what jurors focus on. Jurors do not decide in isolation. They bring their experiences, beliefs, and emotions. Some trust the police more, some have strong views on crime victims, teenagers, drugs, gangs, or family violence. Even fair-minded jurors are influenced by these beliefs.

Slow Down and Think: *A jury hears a tearful victim statement early in trial and only later learns that some identification procedures were weak. How might the early emotional impact affect later evaluation of the identification evidence? Can strong feelings make later caution harder?*

Eyewitness confidence is a good example of this. Jurors often believe confident witnesses, even though research shows that confidence can be influenced by feedback, retelling the story, or subsequent influences (Brewer & Wells, 2006; Wixted & Wells, 2017). A confident witness may seem sure and convincing, and jurors might think that means the witness is accurate. But confidence can increase over time, especially if the witness receives encouragement or repeatedly sees the suspect. Remember: volume is not clarity. Just as turning up the sound on a fuzzy radio does not make the message any truer, a witness's loud certainty does not guarantee they are correct. This simple metaphor can help investigators and jurors remember that confidence and accuracy are not always the same.

Confessions are another example. Jurors often see them as critical, even if made under questionable conditions (Kassin et al., 2010; Woestehoff & Meissner, 2016). This reaction is predictable because confessions appear powerful and sound like an admission of guilt. But research shows confessions need careful review. They can result from pressure, exhaustion, outside influence, or a person's vulnerability.

Emotions also play a role. Some evidence can elicit fear, anger, disgust, or sympathy in jurors. These feelings can affect how they see the rest of the case. Emotional reactions are normal, but the legal system aims to keep strong feelings from overriding judgment. Judges decide what evidence can be shown. Sometimes, they exclude evidence even when it is somewhat relevant (Vidmar & Hans, 2007).

These problems are closely tied to how investigations are done. Suggestive lineups, tainted confessions, and unclear testimony do not just weaken a case; they undermine it. They also affect how jurors feel and think about the case. A weak identification that sounds confident can seem convincing. A confession made under pressure can overshadow stronger evidence. When this happens, jurors may find it hard to question whether the evidence really deserves so much weight (Mindthoff et al., 2024).

Watch Your Step

General Public: “Jurors either follow the law or they follow emotion. It is one or the other.”

Expert: Real decision-making is more mixed than that. Jurors may try to follow the law while still being influenced by emotion, expectations, and the way evidence is framed.

Pro Tip

Investigators should assume that emotionally powerful evidence may carry extra weight in court and therefore needs especially careful verification. A dramatic statement, a vivid photo, or a confession can dominate juror attention. Research in eyewitness and confession science, along with court guidance on bias and fairness, supports the need for stronger safeguards when evidence is emotionally compelling. Powerful evidence should be checked, not just admired.

9.3 Deliberation, Group Dynamics, and the Social Side of Verdicts

Jury decisions are not made by individuals alone. They are shaped by group discussion. After hearing the evidence, the jurors talk about the case together. They compare views, check memories, and try to reach a verdict. Talking as a group can help. It lets jurors share information, correct mistakes, and spot weak points in each other's thinking. But group dynamics can also create pressure. They can silence people with different opinions and sometimes reward confidence instead of accuracy (Devine et al., 2001; Hans & Vidmar, 2007).

To see how this can play out, imagine two jurors debating a shaky timeline during deliberation. One insists that the witness said the key event happened after midnight; the other recalls hearing it was earlier in the evening.

As they discuss their reasoning and memories, notice how the back-and-forth can clarify facts for the whole group or, if one person is more assertive, might lead others to accept an inaccurate version just to move forward. This kind of scenario helps anchor abstract research in lived experience and highlights how the group's social dynamics shape the path to a verdict.

Slow Down and Think: *In the jury room, one juror speaks with strong confidence and quickly dismisses every doubt raised by others. How might that shape the group process? Does confidence inside the jury room always signal better reasoning?*

Group discussion is one of the most interesting parts of a trial. Jurors may change their minds after talking with others. Others may remember missed details, spot contradictions, or challenge ideas. Group talk is a strength, letting people decide together instead of alone. But making decisions as a group also has risks. Jurors do not start discussions without opinions. Some are more outspoken, more comfortable talking, or more sure of their views. First impressions, early votes, and the attitude of a strong juror can all make a difference. Group discussion can help people reason better, but it can also make bias stronger if the group rushes to agree (Levett & Devine, 2017). A loud or very confident juror can sway others, even if they are not the most careful thinker. Some jurors may avoid arguing and just agree with the group. Others may feel rushed

to finish the case. Sometimes, a different opinion disappears not because it is wrong, but because the person does not want to keep arguing. Memory mistakes can happen during group discussions, too. Jurors might misremember testimony, mix up witnesses, or remember how something felt more than what was actually said. Talking as a group can fix some of these errors, but it can also make them worse if several jurors repeat the same mistake (Devine et al., 2001).

For investigators, the lesson is indirect but important. When evidence is clearly documented and recorded, jurors have better tools to check memory and disagreement during deliberation. For example, using audio or video records of key interviews and procedures allows jurors to revisit the exact words and details, reducing the risk of collective misremembering. Recording protocols, such as requiring interviews to be fully captured in real time or written statements to be signed immediately, help ensure that the official record withstands later disputes and group memory errors. Agencies that set concrete standards for documentation not only support fairer outcomes in individual cases but also nudge adoption of higher-quality investigative practices overall (Wells et al., 2020). When the case depends too heavily on impressions, group dynamics become more dangerous. If jurors are forced to argue from memory alone about what a witness said or what an interview showed, the loudest voice may matter more than the clearest record.

Watch Your Step

General Public: “Twelve people together will always make a more accurate decision than one person alone.”

Expert: Group discussion can help, but only when the group remains open to disagreement and careful review. Groups can also rush, conform, or overvalue dominant voices.

Pro Tip

Investigative records should help a jury revisit the evidence, not rely only on memory from live testimony. Clean exhibits, accurate transcripts, preserved recordings, and precise timelines give deliberating jurors something concrete to work with. Research on juror reasoning and wrongful conviction patterns supports the value of reviewable evidence over vague recollection. Strong records reduce the power of the loudest voice in the room.

9.4 Race, Bias, and the Challenge of Fair Juries

Bias can affect jury decision-making at several stages, including jury selection, evidence interpretation, credibility judgments, and deliberation. Research has shown that race and racial stereotypes can influence legal judgments, sometimes in subtle ways that decision-makers do not fully recognize (Kang et al., 2012; Sommers & Ellsworth, 2001). This is one reason courts and researchers have paid increasing attention to implicit bias and structural unfairness in the jury system.

Slow Down and Think:

A report repeatedly describes a defendant with vague labels such as “aggressive” or “suspicious” without tying those words to specific behavior. How might that language interact with juror bias? What would a more neutral report look like?

Bias is not always obvious. Sometimes it appears in open statements or clear discriminatory conduct. But often it works quietly (ACLU of Washington, 2018). A juror may see one witness as more believable than another without fully understanding why. A lawyer may strike a juror for a reason that sounds neutral but is tied to race in practice. A group of jurors may interpret the same behavior differently depending on who showed it. Washington has taken important steps in this area. General Rule 37 (GR-37) was adopted to address race and ethnicity in jury selection by allowing judges to deny a peremptory strike if an objective observer could view race or ethnicity as a factor in the strike, even without proof of purposeful discrimination (ACLU of Washington, 2018). This rule reflects a recognition that bias in jury selection is not always open or intentional. That is a major change in thinking.

Older legal standards often focused on whether someone could prove deliberate discrimination. GR-37 shows a broader and more realistic understanding. Sometimes harm occurs even when a person does not openly admit bias. A rule that waits only for obvious proof may miss the deeper problem.

Washington courts have also acknowledged the danger of racial bias in verdicts themselves. In *State v. Berhe*, the Washington Supreme Court held that when a party makes a *prima facie* showing that an objective observer could view race as a factor in the verdict, the court must hold a hearing and address the issue seriously (*State v. Berhe*, 2019). This demonstrates a broader understanding that fairness requires attention not only to explicit racism but also to implicit and institutional bias. Federal courts in Washington have also used unconscious bias jury instructions and juror education materials to address these concerns. These efforts do not eliminate bias, but they signal that courts increasingly see bias as a real courtroom issue rather than a purely abstract problem (U.S. District Court, Western District of Washington, n.d.).

This section is important for investigators because bias can start long before the trial. The words used in reports, assumptions about who is believable, and how people are described can all affect how others see the case later. Once bias is in the file, it can stay with the case all the way to court. Investigators can reduce this risk by choosing neutral, fact-based language and actively checking reports for bias. For example, instead of writing, “The suspect acted suspiciously,” describe the specific actions observed: “The individual looked around the store multiple times and changed direction when approached by staff.” Similarly, avoid labeling people by race, ethnicity, or background unless that information is directly relevant and necessary for the investigation. As a self-check, before finalizing a report, ask: “Am I describing what was seen and heard, or am I making assumptions about intent or credibility?” These small steps help ensure reports are as objective and fair as possible.

Watch Your Step

General Public: “Bias is only a problem when someone says something openly racist in court.”

Expert: Open statements are one form of bias, but not the only form. Bias can also shape jury selection, credibility judgments, and verdicts in quieter ways. Investigators should care about this because how people are described in reports, how photographs are selected, how witnesses are framed, and how suspects are characterized can all interact with bias later in the case. Neutral and specific reporting supports a fairer process.

Pro Tip

Use behavior-first language in reports and testimony. Describe what a person did, said, or could be seen doing before using character-like labels. Washington reforms such as GR 37, along with national research on implicit bias, support the idea that vague labels can invite stereotypes into legal decision-making. Precision is one of the best anti-bias tools investigators have.

9.5 Judicial Decision-Making and the Myth of Pure Neutrality

Judges play a different role from jurors, but judges are also human decision-makers. Judges rule on motions, decide what evidence comes in, instruct juries, and sometimes make factual findings themselves. Legal training and professional norms matter a great deal, but research shows that judges are not immune from cognitive bias, anchoring, hindsight bias, or the influence of inadmissible information (Guthrie et al., 2001; Wistrich et al., 2005). Many people think of judges as almost perfectly neutral thinkers. The robe, the bench, and the formal setting make them seem completely objective. But research shows that judges are human, like everyone

else. Training, experience, and rules help, but being a judge does not make someone perfectly fair or free from mistakes (Levinson, 2017). In one influential study, judges showed susceptibility to anchoring effects and other judgmental shortcuts, even while trying to remain neutral (Guthrie et al., 2001). Other work found that judges can struggle to fully ignore inadmissible information once they have heard it, even when they know the rules require them to set it aside (Wistrich et al., 2005). These findings do not mean judges are careless. They mean human cognition does not shut off when a robe goes on.

Judges may also be affected by implicit social attitudes. Research has raised concerns that unconscious racial bias can influence legal judgments and the decisions of others in the justice system (Kang et al., 2012; Rachlinski et al., 2009). This is one reason many judicial education efforts now address unconscious bias, deliberate reasoning, and structured decision-making. This is important because judges make many choices before a jury is even involved. A judge decides whether evidence can be used, whether an expert can testify, and whether a confession is admissible in court. These choices can affect the whole case. Since judges are human, their decisions should be studied, questioned, and improved, not just accepted without thought (Mindthoff, 2024).

Watch Your Step

General Public: “Judges are trained, so bias is not really a concern for them.”

Expert: Training helps, but it does not erase human psychology. Judges can still be influenced by anchors, framing, implicit bias, and inadmissible information. This matters for investigators because judges often make key rulings based on what appears in affidavits, reports, suppression hearings, and motion practice. The quality and neutrality of investigative documentation can affect judicial reasoning long before a jury ever hears the case.

Pro Tip

Write reports and affidavits as if a judge will rely on them during fast, high-stakes decisions.

Overstatement, loaded language, and unsupported conclusions do not just weaken credibility. They can distort the decision environment. Judicial decision-making research and court education materials both support careful, factual presentation over dramatic framing. Help the judge think clearly by writing clearly.

9.6 Can Judges and Jurors Really Ignore What They Should Ignore?

One of the hardest questions in legal psychology is whether judges and jurors can fully disregard evidence once they have heard it. The legal system often assumes they can. Limiting instructions, motions in limine, and evidentiary rulings all depend in part on this assumption. Yet research suggests that ignoring information after exposure is often difficult (Wistrich et al., 2005; Sommers & Douglass, 2007). This problem is easy to relate to in daily life. Once someone hears something dramatic or upsetting, it is hard to forget it. Even if people try to be fair, that information can still affect how they see everything else. The legal system often tells people, in effect, “You heard it, but now ignore it.” But research shows this is much harder than it sounds.

Jurors may try honestly to follow a limiting instruction and still be influenced by what they have heard. Judges may also struggle to ignore information once it has shaped their first impression of the case. This does not mean instructions are useless. It means that prevention matters. The most effective way to reduce the influence of improper information is often to keep it out of the decision stream in the first place rather than trust people to erase it later (Wistrich et al., 2005). This issue is closely linked to how investigations are done. Suggestive lineups, mentioning things that should be excluded, weak but dramatic evidence, and tainted confessions can all cause problems that are hard to fix once they are out in the open. A judge’s instruction may help, but it might not erase the earlier impact (Mindthoff, 2024). That is why early discipline matters so much. Once a weak but dramatic piece of information enters the case, it may continue to

Slow Down and Think: A juror briefly hears that the defendant failed a polygraph before the statement is stricken from the record. How easy would it be to fully forget that information? Why does early exposure matter even when the law says to disregard it?

shape judgment even if everyone later agrees it should not have been used. Prevention is often stronger than correction.

Watch Your Step

General Public: “If the judge tells the jury to ignore something, the problem is solved.”

Expert: Instructions matter, but they do not always erase the psychological impact of what people have already heard or seen.

Pro Tip

Investigators should think ahead about what information is necessary, what information is speculative, and what information may later create unfair prejudice. Once harmful information enters the courtroom, it can be difficult to contain. Research on inadmissible information and judicial reasoning, along with evidentiary gatekeeping principles, supports preventing the problem earlier whenever possible. Clean cases age better in court.

9.7 What This Means for Criminal Investigators

By the time a case reaches a judge or jury, many of the most important psychological influences are already built into the file. If investigators used fair lineup procedures, recorded confidence promptly, documented interviews clearly, preserved interrogations, and avoided bias-laden language, later decision-makers are more likely to reach a sound conclusion. If investigators used weak or suggestive methods, the courtroom inherits those problems (Garrett, 2011; Wells et al., 1998).

Some of the most critical investigative best practices include conducting double-blind eyewitness lineups, in

which the person administering the lineup does not know who the suspect is, thereby reducing suggestiveness. Investigators should audio- or video-record all important interviews and suspect interrogations to ensure an accurate record of what was said and how it was said. It's important to document eyewitness confidence at the time of the initial identification because later confidence can change. Using clear, chronological timelines helps jurors follow the sequence of events. Supporting evidence should be attached and clearly labeled. Consistently using objective, fact-based language and checking reports for implicit bias further strengthens the integrity of the file. By following these practices, investigators help provide judges and jurors with the best possible foundation for fair decisions. This is one of the chapter's main lessons. Investigators do more than collect facts. They also decide how those facts will be understood later. A clear report helps jurors follow the evidence. A fair interview helps judges judge reliability. Recording what happens lets everyone see what really happened, rather than relying on memory.

As you reflect on this, consider setting one specific improvement goal for your next case. Which practice or habit from this chapter will you try out this week? Whether it's adopting more neutral language, improving your documentation, or using audio recording for interviews, even a single change can move your work and the justice system forward. Small steps, consistently taken, lay the groundwork for lasting improvement. Investigators cannot control every part of jury or judicial decision-making. They cannot control media coverage, attorney strategy, or every personal belief jurors bring into the courtroom. But they can control whether the case file is clear, whether procedures were fair, whether the record is complete, and whether avoidable contamination was prevented. Those choices matter because jurors and judges work with what investigators leave behind. In this way, good investigation helps prevent problems in court. It reduces guesswork, lowers the chance that weak evidence will be seen as strong, and gives the justice system a stronger base for tough decisions. The most reliable verdicts usually start with the most careful investigations.

Investigators should think of their work not only as finding evidence, but also as protecting future decision-makers from unnecessary confusion. Good reports, neutral language, full recordings, and fair procedures help the truth travel more safely from the field to the courtroom.

Chapter Summary

Jury decision-making and judicial decision-making are shaped by law, evidence, and human

psychology. Jurors often build stories from evidence, deliberate in groups, and may be influenced by emotion, framing, confidence, and bias. Judges are trained decision-makers, but they are still vulnerable to anchoring, hindsight, inadmissible information, and implicit bias. Courts have responded with jury instructions, bias reforms, evidentiary screening, and structured decision processes, but these safeguards do not eliminate every risk (Devine et al., 2001; Guthrie et al., 2001; Wistrich et al., 2005).

For criminal investigators, the lesson is practical and direct. The way evidence is gathered, framed, documented, and preserved affects what judges and jurors can do with it later. Clear timelines, neutral language, fair procedures, and strong recording practices reduce avoidable confusion and prejudice. A strong investigation does not guarantee a perfect verdict, but it gives the legal system a far better chance to reach one.

The courtroom may seem far away from the first interview, the first lineup, or the first report. But in reality, those moments are deeply connected. What investigators do early often shapes what jurors and judges can understand later. That is why careful investigation is not only about solving cases. It is also about making fair decisions possible.

End of Chapter Activities

Case Study Analysis

State v. Berhe (2019)

In *State v. Berhe*, the Washington Supreme Court addressed the danger of racial bias in jury deliberations and emphasized that fairness requires courts to take such claims seriously when an objective observer could view race as a factor in the verdict.

Your task: Write a case analysis explaining why racial bias in jury decision-making threatens both accuracy and public trust. In your response, discuss how explicit bias and implicit bias may affect deliberation differently. Then explain what the court was trying to accomplish by using an objective observer framework. End by

identifying three investigative practices that can reduce the chance that biased assumptions will shape how jurors understand a criminal case.

Choose Your Own (Detective) Adventure

Skills Lab 1: Story Model Breakdown

Take a mock case packet and map the competing stories a jury might build from the evidence. Identify which pieces of evidence support each story and where jurors might fill gaps with assumptions.

Skills Lab 2: Bias Language Audit

Review a sample police report and highlight words that describe people in vague or loaded ways. Rewrite the report using neutral, behavior-based language that would be less likely to invite stereotype-based judgments.

Skills Lab 3: Jury Influence Map

Using a fictional trial scenario, create a chart showing how eyewitness confidence, confession evidence, expert testimony, and emotional exhibits might each affect juror thinking. Then explain which influence seems strongest and why.

Skills Lab 4: Judicial Decision Review

Draft a short memo explaining how anchoring, inadmissible information, and implicit bias might affect a judge's ruling on a motion to suppress. Then suggest procedural safeguards that could reduce those risks.

Skills Lab 5: Case File for Court

Choose a mock investigation and prepare a checklist of everything that should be organized before trial, including timelines, recordings, witness statements, confidence documentation, and evidentiary summaries. Explain how each item could assist jurors or judges later.

Questions That Change How You Think

1. Why do jurors often prefer a coherent story even when a case contains uncertainty?
2. What is the difference between a persuasive case and an accurate case?
3. How can emotion affect jury decision-making without fully replacing rational thought?
4. Why is group deliberation sometimes a strength and sometimes a weakness?
5. How can bias influence a verdict even when no one says anything openly prejudiced?

6. Why is it important to recognize that judges, like jurors, remain vulnerable to human thinking errors?
 7. How should courts balance trust in jurors with the reality that limiting instructions do not always erase harmful information?
 8. What role should expert testimony play in helping jurors understand memory, confessions, and bias?
 9. How can investigative writing either reduce or increase the risk of unfair decision-making at trial?
 10. If you were writing policy for a law enforcement agency, what three courtroom-focused investigative practices would you require first, and why?
-

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This chapter was developed from publicly available research reports and guidance documents. It is intended as a teaching resource and does not constitute legal advice or official policy. Readers should consult local laws and agency policies for specific guidance.

APPENDIX A - PROFESSIONAL ASSOCIATIONS

Appendix A – Professional Associations

Law Enforcement Leadership, Training, and Membership Organizations (Alphabetical)

Federal Bureau of Investigation (FBI)

A federal law enforcement agency that supports investigations nationwide and publishes public resources used by local, state, tribal, and federal partners, including guidance tied to crime reporting, intelligence, and investigative standards. Website: <https://www.fbi.gov/>

Federal Law Enforcement Training Centers (FLETC)

A national training provider for federal law enforcement and partner agencies, offering standardized instruction and skill development that influences field practices and professional expectations across jurisdictions. Website: <https://www.fletc.gov/>

Fraternal Order of Police (FOP)

A national law enforcement membership organization with local lodges that supports officers through professional resources, member services, and advocacy tied to working conditions and the profession. Website: <https://fop.net/>

International Association of Chiefs of Police (IACP)

A major policing leadership organization that publishes model policies, training resources, and professional standards that influence accountability, ethics, and operational practice across agencies. Website: <https://www.theiacp.org/>

Washington State Criminal Justice Training Commission (WSCJTC)

Washington's statewide training and certification commission that sets academy and training expectations for peace officers and other public safety roles, shaping professional norms and accountability across the state. Website: <https://www.cjtc.wa.gov/>

Washington State Patrol (WSP)

Washington's statewide law enforcement agency that provides public resources and statewide operational support, including investigative and forensic service coordination within Washington's justice system. Website: <https://wsp.wa.gov/>

Law Enforcement Investigative and Forensic Partner Organizations (Alphabetical)

American Academy of Forensic Sciences (AAFS)

A leading forensic science organization that supports research and professional standards that directly affect how law enforcement evidence is collected, interpreted, and presented in court. Website: <https://www.aafs.org/>

American Board of Forensic Document Examiners (ABFDE)

A certification board that sets competency standards for forensic document examiners whose work supports law enforcement investigations and courtroom testimony. Website: <https://abfde.org/>

American Board of Medicolegal Death Investigators (ABMDI)

A certification body for medicolegal death investigators who often work alongside law enforcement during unattended, suspicious, and homicide-related deaths. Website: <https://www.abmdi.org/>

American Society of Crime Laboratory Directors (ASCLD)

A professional organization for crime lab leadership focused on quality systems, accreditation support, and management practices that strengthen laboratory services used by law enforcement and prosecutors. Website: <https://www.asclld.org/>

American Society of Questioned Document Examiners (ASQDE)

A membership organization that promotes research and education in questioned document work that supports law enforcement investigations involving fraud, threats, and authenticity disputes. Website: <https://www.asqde.org/>

International Association of Bloodstain Pattern Analysts (IABPA)

A professional association supporting bloodstain pattern analysis training and guidance that informs scene reconstruction and investigative decision-making in serious violent crime cases. Website: <https://www.iabpa.org/>

International Association of Computer Investigative Specialists (IACIS)

A nonprofit organization that trains and certifies digital forensics practitioners whose work supports law enforcement investigations involving computers, mobile devices, and digital evidence. Website: <https://www.iacis.com/>

International Association of Coroners and Medical Examiners (IACME)

A professional association that supports coroner and medical examiner offices that regularly partner with law enforcement during death investigations. Website: <https://theiacme.com/>

International Association for Identification (IAI)

A large identification-focused organization supporting training and professional exchange in areas used by law enforcement, including latent prints, crime scene work, and forensic photography. Website: <https://www.theiai.org/>

National Association of Medical Examiners (NAME)

A professional organization that advances standards in forensic pathology and medicolegal death investigation, which frequently intersects with law enforcement casework. Website: <https://www.thename.org/>

Organization of Scientific Area Committees for Forensic Science (OSAC)

A NIST-administered standards structure that develops forensic science standards and best practices that shape how law enforcement and labs approach evidence reliability and quality. Website: <https://www.nist.gov/osac> and <https://www.nist.gov/adlp/spo/organization-scientific-area-committees-forensic-science/how-to-work-with-us/apply-join>

Society of Forensic Toxicologists (SOFT)

A professional community that advances forensic toxicology standards and education that support law enforcement and medicolegal investigations involving alcohol, drugs, and impairment. Website: <https://www.soft-tox.org/>

APPENDIX B - CAREER LAUNCH TOOLKIT

Appendix B: Career Launch Toolkit

This appendix is your job-search “field guide” for justice-system careers. It is built for students who want a clear path from college to a real hiring process. It covers local, state, tribal, and federal roles across law enforcement, corrections, courts, supervision, dispatch, victim services, investigations, and support careers.

Bottom line: Hiring is not just about being “qualified.” It is about being **trusted**. Most agencies screen for reliability, judgment, and integrity as much as they screen for skills.

A.1 Career Path Map (Justice System Wide)

Use this list to widen your search. Many strong careers are not patrol, and many roles still require the same professional standards.

- **Local/State/Tribal Law Enforcement:** police officer, deputy sheriff, state trooper, university/campus police, transit police, park ranger law enforcement (commissioned roles vary by agency).
- **Federal Law Enforcement:** uniformed police (federal facilities), border enforcement, corrections, and criminal investigator/special agent pathways (requirements vary by agency).
- **Corrections:** jail corrections officer, prison corrections officer, classification staff, programs staff (many institutions expect all staff to respond safely during emergencies).
- **Courts:** court clerk roles, court security, pretrial services, probation support roles, specialty court support.
- **Community Supervision:** probation officer, pretrial services officer, community corrections officer (screening often mirrors law enforcement standards).

- **Dispatch and Communications:** 911 call taker, dispatcher, records specialist, evidence/property technician (high-trust positions).
- **Victim Services:** victim advocate, program coordinator, crisis-response support (often partnered with law enforcement and courts).
- **Investigations and Analysis:** crime analyst, intelligence analyst, research/strategy analyst, records and compliance roles.
- **Forensic and Technical Support:** crime lab roles, digital evidence support, evidence intake, quality support (requirements vary by agency and lab).

A.2 What Most Agencies Screen For (The “Trust File”)

Agencies do not just ask, “Can you do the job?” They ask, “Can we trust you with authority?” Background investigations commonly focus on your work history, criminal history, and personal history to judge reliability and integrity. Federal guidance notes that background evaluations look for issues that would interfere with job performance and may include information gathered from employers, coworkers, and personal contacts. (U.S. Office of Personnel Management, n.d.)

- **Integrity and honesty:** consistency, truthfulness, and willingness to own mistakes.
- **Reliability:** showing up, completing tasks, stable work habits, and follow-through.
- **Judgment under stress:** how you decide, how you communicate, how you manage emotion.
- **Professional boundaries:** respectful conduct, clean decision-making, no “ego policing.”
- **Safety mindset:** risk awareness, asking for help early, and using de-escalation.
- **Documentation habits:** accuracy, completeness, and the ability to explain actions later.

Watch Your Step

Risk: Trying to “clean up” your history or hide a mistake. Background checks often verify details

and cross-check sources. A small issue can become a large one if you are not straightforward.

Better option: Be honest, be consistent, and be ready to explain what you learned and what changed.

A.3 Washington State Snapshot (CJTC Expectations)

In Washington, many commissioned peace officer and corrections officer roles connect to certification and background requirements tied to CJTC and state law. Washington law states it is state policy that law enforcement personnel comply with their oath and agency policies related to the duty to be truthful and honest in official business. (Revised Code of Washington, n.d.-a) Washington law also addresses peace and corrections officer certification and background investigation requirements. (Revised Code of Washington, n.d.-b) CJTC guidance points agencies to RCW background requirements and related rules before making a conditional offer. (Washington State Criminal Justice Training Commission, n.d.)

Student takeaway: In Washington, your credibility is not optional. Truthfulness standards can follow you across agencies and across years.

A.4 Federal Hiring Snapshot (What “Pre-Employment” Usually Includes)

Federal hiring often begins with an application, testing and interviews, then a job offer that starts a deeper screening phase. USAJOBS explains that the background check process typically begins after you accept a job offer, and you may need to provide details about where you lived, worked, and went to school. (USAJOBS, n.d.)

Depending on the role and agency, pre-employment steps may include:

- **Background investigation:** records checks, interviews, and verification of history.
- **Fingerprints:** common for federal roles and many state roles.
- **Drug test:** common across justice roles; federal agencies often treat marijuana as prohibited for testing purposes.
- **Medical exam:** used to confirm you can safely perform essential job tasks.

- **Physical fitness or task test:** common for sworn roles and some custody roles.
- **Polygraph (role-dependent):** common in some federal law enforcement pipelines.
- **Security paperwork:** some roles require forms tied to national security positions.

Pro Tip

Start a “life log” now: addresses, roommates, supervisors, job dates, school dates, and travel. Many background packets ask for details going back years, and delays often happen when applicants cannot remember dates or contacts. (USAJOBS, n.d.)

A.5 What Real Federal Pipelines Look Like (Examples)

These examples show how agencies describe their own screening steps. Your goal is not to memorize agency names. Your goal is to recognize the pattern: interview + background + medical + drug testing (and sometimes a polygraph).

- **FBI (Special Agent):** FBI hiring materials describe a background investigation that can include a personnel security interview, polygraph examination, drug test, fingerprinting, credit and arrest checks, reference interviews, and verification of education. (Federal Bureau of Investigation, n.d.)
- **ATF (Special Agent):** ATF lists steps that include a panel interview, background investigation, polygraph test, medical exam, and drug test. (Bureau of Alcohol, Tobacco, Firearms and Explosives, 2025)
- **DEA (Special Agent):** DEA notes that applicants must pass a background investigation and drug test for a security clearance, and that pre-employment steps may also include a polygraph and medical examination. (Drug Enforcement Administration, n.d.)
- **Federal Corrections (BOP):** BOP describes suitability screening that can include criminal record checks, credit checks, and inquiries with employers and references, plus a drug test during the medical exam and a required physical exam for institution roles. (Federal Bureau of Prisons, n.d.)
- **Federal Probation/Pretrial (U.S. Courts):** U.S. Courts notes that probation and pretrial officer roles

require a pre-employment medical exam, drug test, background check and investigation, and lists items such as fingerprinting, SF-86, and a financial credit check. (Administrative Office of the U.S. Courts, n.d.)

A.6 Your Pre-Employment Checklist (Build It Like a Professional)

This is the checklist that saves stress later. Keep it in one folder (digital and paper).

- **Identity:** government ID, Social Security card, passport (if you have one), and a clean copy of your birth certificate.
- **Education:** unofficial transcripts now, official transcripts on request, and a one-page list of relevant coursework for your target job.
- **Work history:** accurate job titles, supervisor names, phone numbers, addresses, start/end dates, and reason for leaving.
- **Residency history:** every address for the last 10 years (or longer if asked), with dates and roommates.
- **References:** people who can speak to reliability and character (not just friends).
- **Driving history:** be ready to discuss tickets, collisions, and corrective steps.
- **Social media cleanup:** remove posts that show poor judgment, hostility, bias, threats, or illegal activity.
- **Financial basics:** know your credit status, payment habits, and any past issues. Some screenings include credit checks. (Federal Bureau of Investigation, n.d.; Federal Bureau of Prisons, n.d.; Administrative Office of the U.S. Courts, n.d.)

Slow Down and Think

If an investigator asked, “Why should we trust you with authority over other people?” what would your answer be in two sentences?

A.7 Resume and Interview Guidance (Justice System Style)

Resumes: Most justice employers want proof of reliability, communication skills, and service mindset. Show results and responsibility. Keep formatting clean. Avoid slang. Use clear job duties and clear outcomes.

Interviews: Expect behavioral questions and scenario questions. The pattern is simple: describe what you did, why you did it, and what you learned.

- **Behavioral example:** “Tell us about a time you made a mistake.”
- **Scenario example:** “A person is yelling, recording you, and refusing to calm down. What do you do first?”
- **Integrity example:** “Would you report a coworker? Why or why not?”

Pro Tip

Practice answering in 45–60 seconds. Most panels score clarity and judgment. Long answers often hide the point.

A.8 Certifications and Training (Optional, but Helpful)

Not every role needs certifications. But the right certificate can help you stand out, especially in dispatch, corrections, investigations support, and analytical roles. Start with what your target job posting asks for.

- **Law enforcement professional development:** agency training, CJTC-aligned training (Washington), and national best-practice resources from organizations like IACP, PERF, and DOJ/COPS.
- **Dispatch/communications:** look for APCO or NENA-aligned training options (varies by agency).
- **Corrections:** academy and in-service training pathways are often internal, but external professional development can help.

- **Investigations support:** report writing, interviewing fundamentals, and digital evidence basics (role-dependent).

A.9 Job Search Resources (Where to Look)

Use a “three-lane search.” Run all three lanes every week.

- **Lane 1: Federal** — USAJOBS (search by series: 0083 police, 1895 CBP officer, 0007 correctional officer, 1811 criminal investigator, and related).
- **Lane 2: State and local** — state patrol sites, county sheriff offices, city HR pages, civil service listings, and agency recruitment pages.
- **Lane 3: Justice partners** — courts, probation/community supervision agencies, jails, corrections departments, and victim service organizations.

Watch Your Step

Risk: Only applying to one role and waiting. Hiring cycles can be slow, and many openings are seasonal or limited.

Better option: Apply to a “portfolio” of roles that match your values and skills. Keep your materials ready so you can move fast.

A.10 Professional Associations and Networking (Use It the Right Way)

Networking should be professional. The goal is not “who you know.” The goal is learning what the job really expects and how to prepare.

- **National law enforcement leadership and standards:** International Association of Chiefs of Police (IACP), Police Executive Research Forum (PERF).

- **Washington training and norms:** Washington State Criminal Justice Training Commission (WSCJTC).
- **Federal training awareness:** Federal Law Enforcement Training Centers (FLETC) and DOJ/COPS training publications (many are free).

The COPS Office has described FLETC’s State, Local, and Tribal Division as providing advanced training and no-cost or low-cost options for state, local, and tribal officers, including “export” training delivered to the field. (Office of Community Oriented Policing Services, 2024)

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APPENDIX C - JUSTICE-RELATED PROGRAMS IN THE U.S.

Appendix C: Justice-Related Programs

State/ Country	Institution Name	Program Level(s)	FEPAC Accredited?	Online/ In-Person/ Both
Arizona	Arizona State University (Tempe)	BS (Forensic Science, Digital Forensics, Death Investigations) BA/BS (Forensic Psychology) MS PSM PhD	Yes	Both
Arizona	Northern Arizona University (Flagstaff)	BS (Criminology & Criminal Justice) MS (Applied Criminology)	N/A	In-Person
California	Cal State University, Long Beach	BS (Criminology & Criminal Justice – online) MS (Criminal Justice)	N/A	Online
California	University of California, Irvine	BA/BS MA PhD (Criminology; Law & Society)	N/A	Both
Connecticut	University of New Haven	BS (Forensic Science) MS (Forensic Science)	Yes	In-Person
Florida	University of Central Florida (Orlando)	BS (Forensic Science)	Yes	In-Person
Florida	Florida State University (Tallahassee)	BS MS PhD (Criminology & Criminal Justice)	N/A	Both
Georgia	Georgia State University (Atlanta)	BA/BS MS PhD (Criminal Justice & Criminology)	N/A	Both
Massachusetts	Boston University (Boston)	MS (Criminal Justice, Metropolitan College)	N/A	Online
New York	John Jay College of Criminal Justice (CUNY)	BS (Forensic Science) MS (Forensic Science)	Yes	In-Person

State/ Country	Institution Name	Program Level(s)	FEPAC Accredited?	Online/ In-Person/ Both
New York	University at Albany (SUNY)	BS (Forensic Chemistry) MS (Forensic Science – Investigation & Mgmt)	Yes	In-Person
New York	Pace University (New York City)	BS (Forensic Science) MS (Forensic Science)	Yes	In-Person
Washington	Washington State University	BS MA PhD (Criminal Justice & Criminology)	N/A	In-Person
Washington	Seattle University	BA (Criminal Justice & Criminology); accelerated BA/ MA BA/JD pathways	N/A	In-Person
Washington	University of Washington	BA MA PhD (via Dept. of Sociology, Criminology field)	N/A	In-Person
Washington	Western Washington University	BA (Criminal Justice via Sociology major)	N/A	In-Person
Washington	Eastern Washington University	BA (Criminal Justice)	N/A	In-Person
Japan	Ryukoku University (Kyoto)	BA MA PhD (Criminology/Law)	N/A	In-Person
Japan	Rikkyo University (Tokyo)	BA (Sociology – courses in Crime & Justice)	N/A	In-Person
Japan	University of Tokyo	BA MA PhD (Law; Public Policy – including criminology)	N/A	In-Person
Netherlands	University of Amsterdam	BA (Criminology: Crime & Society) MA PhD	N/A	Both

State/ Country	Institution Name	Program Level(s)	FEPAC Accredited?	Online/ In-Person/ Both
Netherlands	Leiden University	BA (Criminal Law & Criminology) LLM PhD	N/A	Both
Norway	University of Oslo	BA (Criminology) MA PhD (Criminology & Sociology of Law)	N/A	Both
Singapore	National University of Singapore	BA (Criminology – joint minor via Law School) MA PhD	N/A	Both
United Kingdom	University of Cambridge	MSt MPhil PhD (Criminology)	N/A	Both
United Kingdom	University of Oxford	MSc MPhil DPhil (Criminology)	N/A	Both
United Kingdom	University College London (UCL)	BA (Security & Crime Science) MS (Crime Science, Criminal Justice) PhD	N/A	Both
United Kingdom	London School of Economics (LSE)	BSc (Criminal Justice) MSc (Global Crime Science) PhD	N/A	Both
United Kingdom	King's College London	LLB (Criminal Law with electives) MA (Criminology)	N/A	Both